

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CIVIL REVISION PETITION No.5053 of 2014

ORDER:

This Civil Revision Petition, under Article 227 of the Constitution of India, is filed challenging the order, dated 15.12.2014, in Original Suit No.469 of 2014 on the file of II Additional Junior Civil Judge, Warangal, whereby the Court below dismissed the suit based on the Memo filed by the respondents/defendants, holding that the period of licence was over by 02.10.2014 and thereby the petitioner/plaintiff is not entitled to continue the business in the suit schedule premises.

2. The aforesaid suit was filed for declaration that the notification issued calling for fresh Tenders vide No.T2/122 (04)/2014-RM, WL, dated 28.06.2014 as null and void and not binding on the plaintiff and to pass a decree for permanent injunction restraining the defendants from interfering with the peaceful possession and enjoyment of the property. The 2nd defendant filed written statement on 12.08.2014, but instead of proceeding with the matter in accordance with law, he adopted a short cut method by filing a Memo requesting the Court to dismiss the suit on account of expiry of licence period. The trial Court dismissed the suit on the basis of said Memo.

3. The Memo is not contemplated either under Civil Rules of Practice or C.P.C., only it is an intimation to the Court. When the petitioner is disputing the very notification itself, based on Memo filed by the respondents herein, the trial Court is not supposed to dismiss the suit. If really the respondents intend to get a decision in the matter at the earliest, at best he can file an application under Order XIV Rule 2 (2) of the Code of Civil Procedure, 1908 (for short, 'C.P.C'), requesting the trial Court to decide entitlement of the petitioner to continue in the suit schedule premises as a preliminary issue, after expiry of alleged

licence period. In case, the preliminary issue is decided in favour of the defendants, the defendants are entitled to proceed further. But, based on Memo, the trial Court is not expected to pass a judicial order dismissing the suit itself. Therefore, the impugned order is liable to set aside.

4. Accordingly, the Civil Revision Petition is allowed setting aside the order, dated 15.12.2014, in Original Suit No.469 of 2014 passed by the II Additional Junior Civil Judge, Warangal. However, liberty is given to the respondents to file an application under Order XIV Rule 2 (2) C.P.C., before the trial Court and in the event of filing of the same, the trial Court may decide the application, as expeditiously as possible, in any event not later than three (03) months from the date of filing of counter by the respondents in the said application, after affording opportunity to both parties.

Miscellaneous petitions, if any, pending in this revision petition shall stand closed. There shall be no order as to costs.

JULY 6, 2017
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M. SATYANARAYANA MURTHY, J

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Date: 06.07.2017

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