

THE HON' BLE SRI JUSTICE M. SEETHARAMA MURTI

Civil Revision Petition No.4792 of 2017

ORDER:

This civil revision petition, under Article 227 of the Constitution of India, is filed by the petitioner-3rd defendant assailing an order of return of the Office of the Court of the learned Chief Judge, City Civil Court, Hyderabad, made in IA.SR.No.19231 of 2017 in OS.No.100 of 2013 which is filed by the petitioner-3rd defendant requesting to grant leave to file written statement as the written statement is not filed within the time allowed under law.

Heard the submissions of the learned counsel appearing for the petitioner-3rd defendant at the stage of admission. Perused the material record.

To begin with, it is to be noted that on the failure of the 3rd defendant to file written statement in the suit of the plaintiff within the time allowed under law, the 3rd defendant filed IA(SR).No.19230 of 2017 under Section 148 of the Code of Civil Procedure, 1908, requesting to enlarge time for filing the written statement in the suit.

According to the submissions now made, the Court below directed the 3rd defendant to file a petition to seek leave. Therefore, the present IA(SR).No.19231 of 2017 is filed seeking leave. That petition was returned with office objection, dated 02.08.2017, of the Office of the Court below asking the 3rd defendant to explain about the maintainability of the petition since a petition seeking the same relief was earlier dismissed. The returned petition was re-presented with a submission that the earlier petition was dismissed on technical grounds, but, not on merits and, therefore, the present application is maintainable more particularly as the petition is filed on a direction by the Court to file the same along with the petition seeking enlargement of time for filing written statement. The Office of the Court below once again returned the petition, on 22.08.2017, to explain the maintainability. That order is under challenge in this revision.

In the considered view of this Court when a petition is returned with office objections, it is the duty of the party to re-submit the same with the submissions duly complying with the objections of the office of the Court. If the Court is not satisfied with such submissions made in the re-presentation, it is the duty of the party to make a request to Court to hear the matter before the Bench and invite an order and then challenge that order. Therefore, a mere return endorsement returning an application with office objection is not assailable. Be that as it may. To meet the ends of justice, this revision petition, in the considered view of this Court, can be disposed of at the stage of admission as such a course sub-serves the ends of justice.

In that view of the matter, the Civil Revision Petition is disposed of giving liberty to the petitioner-3rd defendant to re-present IA(SR).No.19231 of 2017 and also IA. (SR).No.19230 of 2017 within two (02) weeks from the date of receipt of a copy of this order. On such re-presentation, the trial Court shall give an opportunity of hearing to the petitioner-3rd defendant and entertain the applications if the Court is satisfied with the submissions or otherwise pass an order on the maintainability or otherwise of the applications in strict accordance with the procedure established by law. There shall be no order as to costs.

Miscellaneous petitions pending, if any, in this civil revision petition shall stand closed.

M. SEETHARAMA MURTI, J

15.09.2017

Note: Registry is directed to return the original papers to the learned counsel to enable the party to re-present the petition before the trial Court.

(B/ o)
Vjl