

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

CIVIL REVISION PETITION No.4332 of 2017

ORDER:

This Civil Revision Petition, under Article 227 of the Constitution of India, is filed by the unsuccessful respondent/1st defendant, assailing the order, dated 08.08.2017, of the learned XXIV Additional Chief Judge, City Civil Court, Hyderabad, passed in I.A.No.640 of 2017 in O.S.No.502 of 2008.

2. At the stage of admission, I have heard the submissions of Sri S.Sridhar, learned counsel for the petitioner/1st defendant. I have perused the material record.

3. Having regard the facts and submissions, this Court of the considered view that this Revision Petition can be disposed of at the stage of admission.

4. In a suit for declaration of ownership and recovery of possession of the plaint schedule property, the plaintiff filed the afore-stated interlocutory application under Order VII Rule 14 (3) read with Section 151 of the Code of Civil Procedure, 1908, requesting to grant leave to file one document, viz., 'Special notice of House Tax u/S 229 (2) of HMC Act vide No.134/A8/T1J/83, dated 12.01.1984 towards open land tax'. No counter is filed by the defendants resisting the said

application. However, the trial Court, by the order impugned in this Revision, allowed the said petition by a cryptic order, which verbatim reads as follows:-

“Counter not filed. Heard received the documents subject to proof and relevancy.”

5. As rightly pointed out by the learned counsel for the petitioner, the afore-stated order is not a speaking order and, therefore, is unsustainable under facts and in law. Further, if the document sought to be produced is a Photostat copy and not a original, the Court has to examine as to whether sufficient foundation has been laid for granting permission to adduce secondary evidence by producing a copy of the document instead of the original. The learned Judge while passing an order in an interlocutory application of the instant nature is obliged to consider the contentions urged before the Court and record reasons in support of the decision. However, neither the contentions were considered nor were reasons assigned in support of the findings recorded in the order. It is incumbent upon him to advert to the pleadings, contentions, points involved and the legal position, if any, applicable, and then to record findings supported by reasons on the points involved in the applications. It is trite to observe that the need to give reasons has been held to arise out of the need to minimise chances of arbitrariness and induce clarity. Giving reasons, apart from being an essential feature of the principles of natural justice, ensures

transparency and fairness, in the decision making process. Reasons are indicative of application of mind and giving reasons is also essential when the order is amenable to further avenues of challenge. Viewed thus, this Court finds that this Revision can be disposed of with appropriate directions.

6. Accordingly, the Civil Revision Petition is allowed and the order, dated 08.08.2017, of the learned XXIV Additional Chief Judge, City Civil Court, Hyderabad, passed in I.A.No.640 of 2017 in O.S.No.502 of 2008, is set aside and the matter is remitted to the Court below for disposal of the said I.A. afresh, in strict accordance with the procedure established by law, however, after giving opportunity to the 1st defendant to file counter, if any. Considering the fact that the suit is of the year 2008, the 1st defendant is directed to file counter, if any, within one week from the date of receipt of a copy of this order.

There shall be no order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

M.Seetharama Murthi, J

30th August, 2017

Note:-

Furnish C.C. by 01.09.2017.

(B/O)

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