

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

CIVIL REVISION PETITION No.2406 of 2017

ORDER:

Plaintiffs in O.S.No.119 of 2012 on the file of the Court of the learned Senior Civil Judge, Dharmavaram, Anantapur District, are the petitioners in the present revision filed under Article 227 of the Constitution of India. This revision calls in question an order, dated 20.03.2017, passed in I.A.No.37 of 2017 in the said suit.

Heard the learned counsel for the petitioners and perused the material available before the Court.

Petitioners herein instituted the suit for declaration of title and for permanent injunction in respect of the suit schedule property. In the said suit, the 1st defendant filed a written statement in 2012. After the framing of issues, recording of evidence and when the suit stood posted for arguments, the petitioners filed the present I.A.No.37 of 2012 on 03.02.2017 under Order VIII Rule 9 read with Section 151 of the Code of Civil Procedure seeking leave to file rejoinder to the written statement filed by the defendants with regard to agreement of sale, dated 28.07.1980. The said application was resisted by the respondents by way of filing counter. The learned Senior Civil Judge, Dharmavaram, by way of the order under challenge, dismissed the said application.

It is contended by the learned counsel for the petitioners that the impugned order passed by the learned Senior Civil

Judge is erroneous, contrary to law and opposed to the very spirit and object of the provisions of Order VIII C.P.C. It is submitted by the learned counsel that due to lack of legal awareness, the petitioners could not file the application at the earliest point of time and in the event of the present application being allowed, the respondents would not suffer any prejudice and on the other hand, if the petitioners are permitted to file the rejoinder, the same would be helpful to the Court below to arrive at just conclusion in the matter.

In the above background, the question that arises for consideration of this Court in the present revision is –

“Whether the order impugned is sustainable and tenable and whether the same warrants interference by this Court under Article 227 of the Constitution of India?”

Institution of suit is in the year 2012, filing of written statement is also in the same year, framing of issues long back and completion of evidence and factum of matter being posted for arguments are not in dispute. A perusal of the impugned order clearly discloses that the learned Senior Civil Judge had taken all these aspects into consideration and thoroughly discussed the same. The learned Judge took note of the fact that the petitioners/plaintiffs had knowledge about the plea of defendants’ in the written statement wherein they denied the genuineness of agreement of sale and also denial in evidence and also took note of the fact that the petitioners

did not file the rejoinder despite the said plea and the Court below recorded a finding that the petitioners resorted to file the present application to drag on the suit proceedings and to avoid disposal of long pending suit.

It is settled and well established principle of law that unless the impugned order suffers from patent perversity or jurisdictional error, the jurisdiction of this Court under Article 227 of the Constitution of India, cannot be permitted to be invoked. In the instant case, this Court does not find any such contingency, which warrants interference of this Court under Article 227 of the Constitution of India.

For the aforesaid reasons, the civil revision petition is dismissed.

Miscellaneous petitions, if any, shall also stand dismissed. There shall be no order as to costs.

A.V.SESHA SAI, J

Date: 23.06.2017
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