

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

CIVIL REVISION PETITION No.2524 of 2017

ORDER:

The present revision filed under Article 227 of the Constitution of India challenges the order, dated 28.11.2016, passed by the Court of the learned Principal Junior Civil Judge, Hindupur, Ananthapur District.

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

The petitioner herein instituted O.S.No.74 of 2007 on the file of the learned Principal Junior Civil Judge, Hindupur, for permanent injunction against the respondent herein. In the said suit, the petitioner filed I.A.No.80 of 2016 under the provisions of Order VI Rule 17 of the Code of Civil Procedure, 1908 seeking amendment of the prayer portion so as to enable him to seek the relief in the nature of mandatory injunction. The said application was resisted by the respondent by filing a counter. The learned Principal Junior Civil Judge by way of an order, dated 28.11.2016, dismissed the said application. This revision challenges the validity and legal sustainability of the said order.

According to the learned counsel for the petitioner, the impugned order is erroneous, contrary to law and opposed to the very spirit and object of the provisions of Order VI Rule 17 C.P.C. He submitted that the respondent highhandedly constructed the building by changing the nature of property

despite existence of *status quo* order granted by the Court below. He further submitted that in the event of allowing the application, no prejudice would be caused to the respondent herein.

The petitioner instituted the present suit as long back as in the year 2007 and the matter is coming up for evidence. The Court below granted order of *status quo* on 05.04.2007. As rightly pointed out by the learned Principal Junior Civil Judge, the plaintiff/petitioner herein in the affidavit filed in support of I.A.No.80 of 2016 did not specifically plead as to the date on which the defendant/respondent herein made constructions. The Court below also observed that in the absence of any averment to the said effect, it cannot be presumed that the defendant/respondent constructed the house by violating the *status quo* order. The Court below took into consideration the delay in filing the application. It is settled and well established principle of law that unless the order impugned suffers from patent perversity or jurisdictional error, the jurisdiction of this Court under Article 227 of the Constitution of India cannot be pressed into service. In the absence of any such perversity or jurisdictional error, this Court does not find any valid reason to meddle with the order passed by the learned Principal Junior Civil Judge, Hindupur.

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: 16.06.2017
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