

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

CIVIL REVISION PETITION No.3933 of 2017

ORDER:

This Civil Revision Petition, under Article 227 of the Constitution of India, by the unsuccessful petitioner/2nd defendant, is directed against the order, dated 28.06.2017 of the learned IV Junior Civil Judge, City Civil Court, Hyderabad, passed in I.A.No.553 of 2016 in I.A.No.517 of 2016 in O.S.No.2933 of 2012.

2. I have heard the submissions of Sri T.G.Prasad Reddy, learned counsel for the petitioner/2nd 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. The facts of the case, which lie in a narrow compass, in brief, are as follows:-

The plaintiff brought the afore-stated suit against the defendant for perpetual and mandatory injunctions. In the pending suit, it appears that the 2nd defendant had filed certain applications for reopening the evidence and recalling of PW1. However, by the impugned order, I.A.No.553 of 2016 was dismissed by the Court below. The said petition is filed under Order IX Rule 9 read with Section 151 of the Code of Civil Procedure, 1908, seeking restoration of I.A.S.R.No.1608 of 2016 in I.A.No.517 of 2016.

However, the trial Court dismissed the said petition by the following cryptic order:

"Heard, perused the material placed on record. This Court does not find any justifiable and adequate grounds to allow this petition. Hence, this petition is dismissed."

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. 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 28.06.2017, of the learned IV Junior Civil Judge, City Civil Court, Hyderabad, passed in I.A.No.553 of 2016 in I.A.No.517

of 2016 in O.S.No.2933 of 2012, 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.

There shall be no order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

09th August, 2017
Bvv

M.Seetharama Murthi, J

