

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

C.R.P.Nos.4801 and 4872 of 2017

COMMON ORDER:

Since these two revisions are inter-related and arise out of the same suit, this Court deems it appropriate to dispose of these revisions by way of this common order.

2. C.R.P.No.4801 of 2017 assails the order dated 17.8.2017 passed in I.A.No.390 of 2017 in O.S.No.104 of 2011 on the file of the learned Junior Civil Judge, Yemmiganur, Kurnool district. C.R.P.No.4872 of 2017 calls in question the order dated 17.8.2017 passed by the said Court in I.A.No.389 of 2017 in the same suit. The defendants in the said suit are the petitioners herein in these revisions. The respondent herein instituted the said suit for declaration of title. In the said suit, petitioners herein filed the present Interlocutory Applications under Order 18 Rule 17 and Section 151 of CPC. The learned Judge, by way of orders under challenge dismissed the said applications.

3. According to the learned counsel for the petitioners, the orders impugned are erroneous and opposed to the very spirit and object of the provisions of Order 18 Rule 17 of CPC. It is the further submission of the learned counsel that having regard to the nature of suit, the Court below ought to have allowed the applications filed by the petitioners herein. It is the further submission of the learned counsel that the reasons assigned by the learned Junior Civil Judge for dismissing the applications are neither sustainable nor tenable in the eye of law.

4. In the affidavits filed in support of the I.As. before the Court below, the petitioners herein stated that during cross-examination of P.Ws.1 to 4, their previous counsel could not cross-examine them touching all aspects including alleged title and alleged possession over suit property and also touching the documents relied upon by the respondent. The petitioners herein also stated that they came to know about the same through the present counsel who appraised them after going through the case record.

5. It is a settled proposition of law that the provisions of Order 18 Rule 17 of CPC cannot be pressed into service in order to fill up the lacunae in the case. The instant suit was instituted as long back as in the year 2011 and the issues were framed on 7.7.2014 and the evidence on behalf of plaintiff came to end on 26.10.2015. It is also not in dispute that now the matter is coming up for arguments.

6. A perusal of the affidavits filed in support of the applications before the Court below discloses that only reason shown therein was that their previous counsel could not cross-examine them touching relevant aspects. In the considered opinion of this Court, the said reason cannot be a ground for ordering the applications of this nature. In fact, the Court below, after meticulously considering various aspects, dismissed the applications filed by the petitioners herein. It is a settled and well established principle of law that unless the order suffers from jurisdictional error and patent perversity, the invocation of jurisdiction of this Court under Article 227 of the Constitution of India is impermissible.

7. Accordingly, the Civil Revision Petitions are dismissed. As a sequel, the miscellaneous petitions, if any, shall stand closed. There shall be no order as to costs.

A.V.SESHA SAI, J

Date: 8.11.2017
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