

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

CIVIL REVISION PETITION No.2344 of 2012

ORDER:

The present revision is filed under Article 227 of the Constitution of India by the defendant in O.S.No.187 of 2009 on the file of the learned VII Additional District Judge (Fast Track Court), Visakhapatnam against the order passed by the said Court in I.A.No.994 of 2011 in O.S.No.187 of 2009, dated 14.02.2012, dismissing the application filed by the petitioner under the provisions of Order I Rule 10 CPC.

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

The first respondent herein instituted the said suit for recovery of a sum of Rs.13,79,250/- with interest and costs on the foot of a receipt said to have been executed by the petitioner herein. In the said suit the defendant-petitioner herein filed a written statement on 18.03.2010 and, after filing the chief affidavit of P.W.1, the petitioner herein filed I.A.No.994 of 2011 under the provisions of Order I Rule 10 and Section 151 CPC r/w Rule 28 of the Civil Rules of Practice seeking to implead the father of the plaintiff as the first defendant in the suit. The said application was contested by the plaintiff-first respondent herein by way of filing counter. The learned Additional District Judge, by way of an order dated 14.02.2011, dismissed the said application. This

revision challenges the validity and legal sustainability of the order passed by the learned Additional District Judge.

According to the learned counsel for the petitioner, the order passed by the learned Additional District Judge is erroneous, contrary to law and opposed to the very spirit and object of the provisions of Order I Rule 10 CPC. It is submitted by the learned counsel that the father of the first respondent herein is a proper and necessary party for adjudication of the *lis* pending before the Court below and, in the event of the plaintiff's father being brought on record, there can be a just and reasonable conclusion by the Court below on the issue. The learned Judge recorded a categorical finding that the proposed party is neither a proper nor a necessary party. The only aspect, which needs consideration of the Court below, is as to the genuineness of the receipt said to have been executed by the petitioner herein. The learned Judge kept it open for the petitioner to get the father of the petitioner-first respondent herein summoned instead of adding him as a party to the proceedings. The learned Judge also came to a conclusion that the application was filed at a belated stage i.e., after filing of the chief affidavit of P.W.1. 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 VII Additional District Judge (Fast Track Court), Visakhapatnam.

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

03rd August, 2017
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