

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CIVIL REVISION PETITION No.5254 OF 2017

ORDER:

Questioning the order, dated 05.07.2017, passed in I.A.No.128 of 2013 in O.S.No.32 of 2010 by the learned Junior Civil Judge, Banswada, the present revision petition is filed.

2. By the aforesaid Interlocutory Application, the respondent – plaintiff sought to introduce an amendment under Order VI Rule 17 C.P.C. read with Rule 28 of Civil Rules of Practice, seeking the relief of mandatory injunction and to direct the petitioners – defendants to close the existing four windows and four ventilators detailed in the sketch map annexed thereto and consequently, sought the amendments be introduced in the body of the plaint.

3. The said amendments were resisted to by the petitioners – defendants by filing counter. Various aspects have been agitated in the counter affidavit and even the memo, dated 15.10.2011, issued by the Government was also taken aid.

4. The learned Junior Civil Judge, referring to the stage of the proceedings that trial was not yet commenced and there cannot be any prejudice that would be caused to the petitioners, in case, the relief in the aforesaid Interlocutory Application was acceded to, allowed the Interlocutory Application, however, with a direction that the respondent shall pay the requisite Court fee in respect of the new

reliefs claimed and shall file a neat copy of the plaint within seven days by carrying out necessary amendment in the main plaint.

5. Heard Sri M. Bhushan Reddy, learned counsel for the revision petitioner.

6. Learned counsel for the petitioners, no doubt, would submit that the respondent – plaintiff has been enjoying the sajjas to the old construction and he made constructions over the old constructions, but arbitrarily he is seeking relief to injunct petitioners – defendants from raising sajjas over the four windows. That has been the main relief sought for originally. Now, the respondent – plaintiff arbitrarily intends to get the windows closed. Therefore, such a relief ought not to have been granted by the Court below.

7. Though, it appears that there is sound reason in the submission made by the learned counsel for petitioners, but, however, the petitioners would get a chance to file additional written statement to agitate the defense and to resist such a request, in which case, there would be a relevant issue therefor for adjudicating upon the controversy. When viewed in that context, no prejudice would be caused to the petitioners.

8. The suit relates to the year 2010. Therefore, while dismissing the present revision petition, at the admission stage, the trial Court is hereby directed to dispose of the suit itself within six months by

completing the exercise of receiving the neat copy of plaint as well as additional written statement within a period of one month from the date of receipt of a copy of the order and to frame additional issues, if issues are already framed for trial, and proceed with disposal of the suit. The trial Court is directed to dispose of the suit uninfluenced by any of the observations made herein.

9. Miscellaneous Petitions, if any, pending in this revision petition shall stand closed. There shall be no order as to costs.

October 13, 2017.
MD

A. SHANKAR NARAYANA, J

