

THE HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

CIVIL REVISION PETITION No.5145 Of 2016

ORDER:

1 This Civil Revision Petition, under Article 227 of the Constitution of India, is filed challenging the order dated 11.03.2016 passed in I.A.No.188 of 2016 in C.M.A.No.54 of 2015 on the file of the Court of the IX Additional Chief Judge, City Civil Court, Hyderabad.

2 A perusal of the record reveals that the respondents herein filed O.S.No.697 of 2013 on the file of the Court of the VII Senior Civil Judge, City Civil Court, Hyderabad against the petitioners herein for perpetual injunction. Pending the said suit, the respondents filed I.A.No.434 of 2013 seeking ad-interim injunction. The trial Court after hearing the counsel for the respondents therein granted ad-interim injunction in favour of the respondents. Feeling aggrieved by the orders of the trial Court, the petitioners herein filed CMA No.54 of 2015 on the file of the Court of the IX Additional Chief Judge, City Civil Court, Hyderabad. In the said CMA the petitioners filed I.A.No.188 of 2016 under Order 41 Rule 27 r/w section 151 CPC to receive additional documents. The appellate Court dismissed the said petition with the following observations:

“Coming to the case of the petitioner / appellant the documents can be received, if the other side has no objection to mark the same herein. The respondents are strongly opposing the same for marking in the CMA herein. Admittedly the documents of R.1 to R6 filed by the respondents are consider by Lower Court herein. Hence, the said documents can be consider during the trial herein.”

3 A perusal of the above clearly reveals that the appellate court dismissed the petition on the ground that the respondent opposed the petition. The appellate court has not assigned any reason whether those documents are relevant or not for disposal of the CMA. When a petition under Order 41 Rule 27 is filed praying the court to receive

certain documents as additional evidence, the court has to decide the same along with the main CMA. For one reason or the other, the appellant court has not followed the procedure.

4 Having regard to the facts and circumstances of the case, the impugned order is not sustainable either on facts or in law.

5 Accordingly, the Civil Revision Petition is allowed, the order dated 11.03.2016 passed in I.A.No.188 of 2016 in C.M.A.No.54 of 2015 on the file of the Court of the IX Additional Chief Judge, City Civil Court, Hyderabad is hereby set aside. Consequently I.A.No.188 of 2016 is restored to file. The appellate Court is hereby directed to dispose of the I.A.No.188 of 2016 along with the CMA No.54 of 2015 simultaneously as expeditiously as possible, preferably, within a period of two months from the date of receipt of a copy of this order. No order as to costs. As a sequel, the miscellaneous petitions, pending in this petition, if any, shall stand closed.

Date: 6th February, 2017
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T. SUNIL CHOWDARY, J