

HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CIVIL REVISION PETITION No.2760 of 2017

ORDER:

This Civil Revision Petition, under Article 227 of the Constitution of India, is filed assailing the Order dt. 30.03.2017 in I.A.No.1664 of 2016 in O.S.No.833 of 2012 passed by III Additional Chief Judge, City Civil Court, Hyderabad, dismissing an application filed under Order 6 Rule 17 CPC.

The Order of the trial Court dt. 30.03.2017 at para No.10 till end is without any meaningful reference and none of the sentences conveyed any reason either to accept or to disagree with the conclusion arrived by the trial Court and therefore, the para No.10 is extracted hereunder for better appreciation:

“ The contentions of both counsel can be accepted. The findings in I.A.No.3235 of 2012 and I.A.No.1846 of 2015 when disposed by this Court giving finding by way of common order in favour of respondent/defendant. The allegation of the petitioner/plaintiff that the respondent/defendant by using duplicate keys taken over possession cannot be considered in the present petition which is a subject matter of the Civil Revision petition pending on the Hon'ble High Court as admitted by both counsel. The contention of the respondent/defendant counsel can be considered that the suit prayed as under (d) and (e) prayers can be considered for not considering the relief of Order 6 Rule 17 prayed by the petitioner/plaintiff. Admittedly, the merits of the amendment cannot be denied which shall be decided on the main case itself. That the prayers of (d) and (e) of the plaint can be considered in favour of respondent/defendant for the relief prayed by him which he has to establish by the petitioner/plaintiff during the course of trial.

(d) to direct the defendant to pay a sum of Rs.8,32,000/- as detailed in plaint 'B' schedule to the plaintiff together with interest at 24% per annum till the realization;

(e) to direct the defendant to pay rent @ Rs.24,000/- per month from 20.10.2012 to the suit schedule property and future rents. Since the keys of the suit schedule property are with the defendant, which were handed over by the Bank.

The petition is devoid of merits. The petitioner/plaintiff is directed to proceed with the trial forthwith. The petition is liable to be dismissed.

The point is answered accordingly.

In the result, the petition is dismissed. In the circumstances, No order as to costs”.

The Order under challenge is not in accordance with law. In *Joint Commissioner of Income Tax, Surat, Vs. Saheli Leasing and Industries Limited*¹, the Hon'ble Apex Court laid down certain guidelines for drafting judgments and orders in para No. 7 of the judgment and they are extracted hereunder:

- "7. These guidelines are only illustrative in nature, not exhaustive and can further be elaborated looking to the need and requirement of a given case:-**
- a) It should always be kept in mind that nothing should be written in the judgment/order, which may not be germane to the facts of the case; It should have a co-relation with the applicable law and facts. The ratio decidendi should be clearly spelt out from the judgment/order.**
 - b) After preparing the draft, it is necessary to go through the same to find out, if anything, essential to be mentioned, has escaped discussion."**
 - c) The ultimate finished judgment/order should have sustained chronology, regard being had to the concept that it has readable, continued interest and one does not feel like parting or leaving it in the midway. To elaborate, it should have flow and perfect sequence of events, which would continue to generate interest in the reader.**
 - d) Appropriate care should be taken not to load it with all legal knowledge on the subject as citation of too many judgments creates more confusion rather than clarity. The foremost requirement is that leading judgments should be mentined and the evolution that has taken place ever since the same were pronounced and thereafter, latest judgment, in which all previous judgments have been considered, should be mentioned. While writing judgment, psychology of the reader has also to be borne in mind, for the perception on that score is imperative.**
 - e) Language should not be rhetoric and should not reflect a contrived effort on the part of the author.**
 - f) After arguments are concluded, an endeavour should be made to pronounce the judgment at the earliest and in any case not beyond a period of three months. Keeping it pending for long time, sends a wrong signal to the litigants and the society.**

¹ 2010 (253) ELT 705 (SC)

- g) It should be avoided to give instances, which are likely to cause public agitation or to a particular society. Nothing should be reflected in the same which may hurt the feelings or emotions of any individual or society."**

In another judgment in *Board of Trustees of Martyr Memorial Trust and another v Union of India and another*², the Apex Court held that it is the duty of the Court to state its reasons on each issue by due application of mind, clarity of reasoning and focused consideration; a slipshod consideration or cryptic order or decree without due reflection on issues raised in the matter may render such decree unsustainable and therefore, hasty adjudication must be avoided and each and every matter that comes to the Court must be examined with seriousness it deserves and in case the Court failed to answer on each and every issue, it is not a judgment in the eye of law.

In another judgment in *S.M. Mukerji v Union of India*³, the Apex Court held that the need for recording of reasons is greater in a case where the order is passed at the original stage, a decision without reasons is like grass without root, the requirement to record reasons is one of the principles of natural justice as well and where a statute required recording of reasons in support of the order, it must be done by the authorities concerned. Therefore, the Order under challenge is contrary to the principle laid down by the Apex Court for writing the judgments and orders.

² 2012 (10) SCC 734

³ 1990 CrI.L.J.2148

The counsel for the respondent contended that the plea by way of proposed amendment is totally inconsistent with the plea raised in the plaint originally and such amendments cannot be allowed while exercising power under Order 6 Rule 17 CPC and placed reliance on three judgments of the Apex Court in *B.K.N. Pillai v. Pillai and another*⁴, *Usha Balashaheb Swami and others v Kiran Appaso Swami and others*⁵ and *Baldev Singh and others v. Manohar Singh and another*⁶. In all these three judgments, the Apex Court consistently held that the principle for amendment of Written Statement cannot be applied to the amendment of plaint since inconsistent pleas cannot be permitted to be raised by the plaintiff in a suit; whereas the consideration is different for amendment in case of Written Statement.

As observed by me in the earlier paras, the Order under challenge is totally bereft of any reasoning and not conveying any meaning and therefore, the Order is set aside while remanding the matter to the trial Court to decide the petition, in accordance with law, within a month from the date of receipt of a copy of this Order, keeping in view, the principles laid down in the judgments referred supra.

With the above direction, this Civil Revision Petition is allowed.

⁴ AIR 2000 SC 614

⁵ AIR 2007 SC 1663

⁶ AIR 2006 SC 2832

As a sequel, miscellaneous petitions, if any, pending in this case, shall stand dismissed.

M. SATYANARAYANA MURTHY, J

Date: 24-07-2017.

Note: Issue CC by 26.07.2017.

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HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

GRP No.2760 of 2017

Dt. 24-07-2017



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