

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

CIVIL REVISION PETITION NO.3332 OF 2012

ORDER:

A third party to O.S.No.114 of 2007 on the file of the Court of the I Additional Junior Civil Judge, Ongole, is the petitioner in the present revision filed under Article 227 of the Constitution of India.

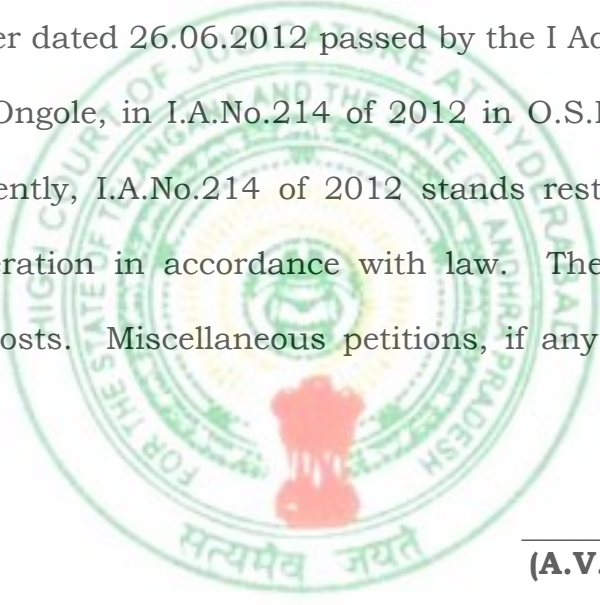
Heard the learned counsel for the parties and perused the material available on record.

First respondent herein instituted O.S.No.114 of 2007 against the respondents 2 and 3. In the said suit, the petitioner herein filed I.A.No.214 of 2012 under the provisions of Order I Rule 10 of the Code of Civil Procedure seeking his impleadment as third defendant. The plaintiff/first respondent resisted the said application. The learned I Additional Junior Civil Judge, by way of an order dated 26.06.2012, dismissed the said application. This revision calls in question the said order passed by the learned I Additional Junior Civil Judge.

According to the learned counsel for the petitioner, the questioned order is highly erroneous, contrary to law and is opposed to the very spirit and object of the provisions of Order I Rule 10 of the Code of Civil Procedure. It is the further submission of the learned counsel that the learned Junior Civil Judge grossly erred in passing a non-speaking order without adverting to the contents of the supporting affidavit filed in I.A.No.214 of 2012. It is the further submission of the learned counsel that had the contents of the affidavit filed in support of the application been considered, the questioned order would not have emanated.

A perusal of the impugned order discloses that the learned I Additional Junior Civil Judge did not consider the contents of the affidavit filed in support of I.A.No.214 of 2012 nor made any effort to verify as to whether the petitioner herein is a proper and necessary party for adjudication of the issue in O.S.No.114 of 2007. The learned Judge did not assign any cogent and convincing reasons for arriving at the conclusions. Therefore, in the considered opinion of this Court, the matter requires reconsideration by the Court below.

For the aforesaid reasons, the revision is allowed, setting aside the order dated 26.06.2012 passed by the I Additional Junior Civil Judge, Ongole, in I.A.No.214 of 2012 in O.S.No.114 of 2007 and consequently, I.A.No.214 of 2012 stands restored to file for fresh consideration in accordance with law. There shall be no order as to costs. Miscellaneous petitions, if any, pending shall stand closed.



(A.V.SESHA SAI, J)

10th August 2017
RRB