

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CIVIL REVISION PETITION No.700 of 2014

ORDER:

This Civil Revision Petition, under Article 227 of the Constitution of India, is filed challenging the order, dated 26.03.2009 in I.A. No.627 of 2008 in I.A. No.138 of 2004 in O.S. No.8 of 1992 passed by the Junior Civil Judge, Bheemunipatnam whereby the trial court dismissed the petition filed under Rule 17 of Order VI of the Code of Civil Procedure, 1908 (for short 'CPC').

The present suit was filed in the year 1992 that is prior to amendment of CPC by Act 22 of 2002 w.e.f., 01.07.2002, the subsequent addition of proviso to Rule 17 of Order VI of CPC will have no application in view of the law declared by the Apex Court in **Delhi Development Authority v. S.S. Aggarwal and others¹**, **Chander Kanta Bansal v. Rajinder Singh Anand²** and **A. Krishna Rao v. A. Narahari Rao and others³**.

Learned counsel for the respondents contended that the specific plea about the variation in the boundaries pleaded at paragraph 9 of the counter was not considered and therefore requested this court to remand the matter leaving it open to raise this specific contention.

Apparently, the trial court did not consider the specific plea raised in paragraph 9 of the counter. Therefore the order passed by the trial court is liable to be set aside.

In the result, the civil revision petition is allowed, while remanding the matter to the Junior Civil Judge at

¹ 2011 (6) SCJ 496

² 2008 (6) SCJ 440

³ 2015 (1) ALT 113

Bheemunipatnam, to decide the other pleas based on either fact or law and decide the I.A. No.627 of 2008, within two months from the date of receipt of a copy of this order, after affording reasonable opportunity to both the parties, in accordance with law. No costs.

Miscellaneous Petitions, if any, pending in this civil revision petition shall stand closed.

M.SATYANARAYANA MURTHY,J

Date:27.06.2017
BV

