

HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN

Civil Revision Petition Nos.4719 and
4785 of 2015 and 4405 of 2017

Common Order:

While the two revisions of the year 2015 are filed by the defendant in a suit for bare injunction, the last revision of the year 2017 is filed by the plaintiff. But all these revisions arise out of two separate orders passed by the First Appellate Court in two applications I.A.Nos.563 and 564 of 2015. Therefore, they are taken up together for disposal.

2. Heard Mr. A.P. Venugopal, learned counsel appearing for the defendant who is the petitioner in the two revisions of the year 2015 and Mr. S.Satyanarayana Prasad, learned Senior Counsel appearing for the plaintiff who is the petitioner in the revision of the year 2017.

3. The suit for bare injunction was dismissed by the Trial Court, forcing the plaintiff to go on appeal in A.S.No.45 of 2015. It appears that in the first appeal, the plaintiff/appellant himself filed an application in I.A.No.223 of 2015 along with certain documents.

4. When the appeal was taken up for hearing, the defendant took out two applications, one in I.A.No.563 of 2015 for receiving additional documents under Order XLI, Rule 27 CPC and another in I.A.No.564 of 2015 for examining a witness for marking of the documents. Both these applications were partly allowed by the First Appellate Court,

directing the marking of about 17 documents as Exs.B-21 to B-37, but rejecting the prayer for recalling P.W.1 for the purpose of marking the documents.

5. Aggrieved by the dismissal of the prayer for recalling P.W.1 and the dismissal of the prayer for personal inspection by the Appellate Court, the defendant came up with C.R.P. Nos.4719 and 4785 of 2015. It appears that the respondents took notice in one of those revisions and the revisions got adjourned from time to time without being admitted and without notice being ordered.

6. Aggrieved by the portion of the order allowing the application, the plaintiff also filed a revision way back in the year 2015, got it numbered after a long delay and got the delay condoned in representation. This is C.R.P.No.4405 of 2017.

7. Today, Mr. A.P. Venugopal, learned counsel for the petitioner appearing in C.R.P.Nos.4719 and 4785 of 2015, stated that he is not pressing the revisions, as against that portion of the order of the First Appellate Court rejecting his request for personal inspection and rejecting his prayer for recalling P.W.1. Therefore, C.R.P.Nos.4719 and 4785 of 2015 are dismissed.

8. Coming to C.R.P.No.4405 of 2017, the grievance of the revision petitioner is two fold viz., (a) that the documents filed by him at the interlocutory stage under first appeal, cannot be marked as documents on the side of the

respondents and (b) that in any case, an application under Order XLI, Rule 27 CPC should be taken up normally along with the appeal and decide.

9. Without going into the merits of the above contentions, it is submitted by Mr. A.P. Venugopal, learned counsel for the respondent in C.R.P.No.4405 of 2017, that since the First Appellate Court is on the verge of final hearing and pronouncing the judgment, he has no objection to these documents not being taken into account by the First Appellate Court. Therefore, C.R.P.No.4405 of 2017 is allowed, setting aside the order of the First Appellate Court marking Exs.B-21 to B-37. The First Appellate Court may now proceed to dispose of A.S.No.45 of 2015, without reference to Exs.B-21 to B-37.

10. In the result, C.R.P.Nos.4719 and 4785 of 2015 are dismissed and C.R.P.No.4405 of 2017 is allowed. Since the controversies in these revisions have come to an end, the First Appellate Court may endeavour to dispose of the appeal within a period of six weeks. The miscellaneous petitions, if any, pending in these revisions shall stand closed. No costs.

V.RAMASUBRAMANIAN, J.

22nd December, 2017.
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