

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

CIVIL REVISION PETITION No.5671 of 2017

ORDER :

The Civil Revision Petition is filed by the petitioner/plaintiff, aggrieved by the order dated 21.09.2017 in I.A.No.1664 of 2016 in O.S.No.833 of 2012 on the file of the III Additional Chief Judge, City Civil Court, Hyderabad.

2. The petitioner and respondent herein are plaintiff and defendant respectively in O.S.No.833 of 2012 filed for the following reliefs: a) for a declaration that the suit schedule property belongs to the plaintiff as per joint memo filed by the parties in P.L.C.No.156 of 2006 on the file of the Hon'ble Lok Adalat, b) a consequential direction directing the defendant to deliver the 'A' schedule property attached to the plaint and in case 'A' schedule property is not delivered, the plaintiff is entitled to possession of 'A' schedule property through Court, c) for a permanent injunction restraining the defendant for making any structural alterations in suit schedule property, 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%p.a. till realization, e) to direct the defendant to pay

rent Rs.24,000/- p.m. 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, f) to award costs of the suit to the plaintiff and g) granting such other relief or reliefs.

3. The amendment sought by the plaintiff by filing I.A.No.1664 of 2016 under Order VI Rule 17 r/w Section 40(2) of the Specific Relief Act (for short 'the Act') and Rule 28 of the Civil Rules of Practice with consequential amendment is to grant past and future damages in the plaint prayer portion against the defendant for use and occupation. After contest, the same is ended in dismissal by the impugned order dated 21.09.2017.

4. The lower Court, in dismissal of the petition, mainly considered the amendment when can be allowed referring to the expressions on the scope of Order VI Rule 17 of the Act. Basically, the lower Court did not consider what is required as to what is the original prayer and what is now sought to be amended.

5. The learned counsel for the defendant/revision respondent placed reliance on the expression of the Apex Court in *Sadhana Lodh v. National Insurance Co. Ltd.* and

another<sup>1</sup>, wherein at para-7 it is observed that the supervisory jurisdiction conferred on the High Courts under Article 227 of the Constitution is confined only to see whether an inferior court or Tribunal has proceeded within its parameters and not to correct an error apparent on the face of the record, much less of an error of law. In exercising the supervisory power under Article 227 of the Constitution, the High Court does not act as an Appellate Court or the Tribunal. It is also not permissible to a High Court on a petition filed under Article 227 of the Constitution to review or re-weigh the evidence upon which the inferior court or Tribunal purports to have passed the order or to correct errors of law in the decision.

6. In fact, as referred supra, in the plaint itself sought for past rent and claiming as future rent. If at all for damages from the date of suit loosely referred as rent, it makes no difference for technicalities in the pleading cannot be given importance including from the very wording of Order VI Rule 2 C.P.C. for the pleading shall not embody the statements of law and the wording is to be understood with reference to the provisions from the whole reading of the pleadings. Leave it as it is from the settled three Judge Bench

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<sup>1</sup> AIR 2003 SC 1561

expression of the Apex Court in *Gopala Krishna Pillai v. Meenakshi Ayal and others*<sup>2</sup>. So far as the future cause of action and future profits concerned, plaintiff need not even ask a relief for no accrual cause of action as on the date of filing of the suit, but for, for the past rent or past damages. It is also made clear that even there is a prayer, Court cannot compel to pay court fee for future reliefs that are to be determined ultimately pursuant to the relief in the suit, if at all to determine for payment of court fee at that time.

7. Once such is the law, but for, to understand if at all the loose wording of rent for damages, that can be clarified in evidence of the plaintiff during trial, the amendment is innocuous and academic and thereby, this Court is not chosen to set aside the impugned order, much less to allow the same but for disposal of the revision with above clarification.

8. Accordingly, the Civil Revision Petition is disposed of.

9. Consequently, miscellaneous petitions pending, if any, shall stand dismissed.

Dr. B. SIVA SANKARA RAO, J

Date:07-11-2017  
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<sup>2</sup> AIR 1967 SC 155