

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

C.R.P.No.5924 of 2017

ORDER

This revision under Article 227 of the Constitution of India is filed challenging the docket order dated 03.03.2017 returning the application filed by petitioner under Section 151 of CPC raising an objection about the maintainability of the petition.

2. When the plaint was returned on 28.6.2014 by exercising power under Order 7 Rule 10 of CPC due to lack of territorial jurisdiction over the subject matter of the property, the petitioner prayed peculiar relief in a petition filed under Section 151 of CPC before the Court below requesting to take the file, pronounce judgment or send the file to an Agent to the Government.

3. The petition was filed on 23.02.2017, but as seen from the order under challenge, the plaint was returned on 28.06.2014 i.e., almost two years eight months prior to filing of this petition, due to lack of territorial jurisdiction by exercising power under Order 7 Rule 10 of CPC. No petition was filed under Order 7 Rule 10-A of CPC by the 1st respondent/plaintiff herein and since the date of return of the plaint, the entire bundle, which is inclusive of the plaint and documents filed along with the plaint, is in the office of the Additional Senior Civil Judge, FTC, at Kothagudem. The 1st respondent/plaintiff did not represent the returned plaint before the competent Court. In such case, the question of taking up the suit on file again and pronounce judgment does not arise. The Court below found that the Court lacks jurisdiction in the matter. Hence, the request of the

counsel for petitioner to take up the suit on file and pronounce judgment cannot be passed by the Court below.

4. The other request made by petitioner is to send the file to the Agent to the Government. The duty of the Court is to return the plaint under Order 7 Rule 10 of CPC and at the same time, it is not the duty of the Court to send the plaint to the Court having jurisdiction. It is for the plaintiff to take back the returned plaint and present the same before a competent Court having jurisdiction to try the suit and the Court will send the documents on receipt of requisition from the competent Court, but straightaway the Court cannot send the record to the Agent to the Government by exercising power either under Order 7 Rule 10 or 10A of CPC. Hence, the order passed by the Additional Senior Civil Judge (FTC), Kothagudem, does not call for interference by this Court as the order is free from illegality. However, the petitioner is directed to file appropriate application before the Court below.

5. With the above direction, the Civil Revision Petition is disposed of. No order as to costs. Miscellaneous petitions, if any, pending in this revision shall stand closed.

M. SATYANARAYANA MURTHY, J

17th November, 2017

sj