

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CIVIL REVISION PETITION No.390 of 2018

ORDER:

This Civil Revision Petition is filed under Article 227 of the Constitution of India challenging the order, dated 24.08.2017, in I.A.No.2088 of 2010 in O.S.No.259 of 2008 on the file of VIII Additional Senior Civil Judge, Ranga Reddy District at L.B.Nagar.

2. A perusal of the record reveals that the petitioner herein filed the aforesaid Interlocutory Application under Order VI Rule 17 read with Rule 151 of C.P.C. for amendment of plaint. Respondent No.1 in the said petition filed counter-affidavit opposing the claim. The trial Court, by an order, dated 24.08.2015, allowed the petition permitting the petitioner herein to amend the plaint. Feeling aggrieved by the said order, dated 24.08.2015 in I.A.No.2088 of 2010 in O.S.No.259 of 2008, the 1st respondent herein preferred C.R.P.No.1778 of 2016 and this Court allowed the said revision petition on 27.01.2017 and remanded the matter to the trial Court for fresh disposal. Operative portion of the said order reads thus:

“In the result, the civil revision petition is allowed and the order impugned in the revision is set aside and the I.A.No.2088 of 2010 in O.S.No.259 of 2008 is remitted to the trial Court for disposal afresh, in accordance with procedure established by law, after considering the various factual and legal aspects including the questions – (i) whether the plaintiff firm's name can be permitted to be amended in the light of the fact that even by the date of the filing of the suit the plaintiff firm's name has been changed?; (ii) whether the bar of limitation, having regard to the facts peculiar to the case, requires to be considered even while considering the merits of the amendment

application?; (iii) whether the suit, if the amendment is to be allowed, can be deemed to have been instituted on the date of the original institution or not?; and, (iv) whether the period of limitation shall be reckoned with reference to the date of permitting the amendment of the plaint, in case the amendment is to be permitted.”

3. After remand, the trial Court passed the impugned order on 24.08.2017 in the said Interlocutory Application. In all fairness, both the counsel submitted that the trial Court has not passed the order as per the directions of this Court in C.R.P.No.1778 of 2016, dated 27.01.2017. In view of the submission made by both the counsel, this Court is not inclined to go into the merits of the impugned order. This is a fit case once again to remand the matter to the trial Court for fresh disposal.

4. In the result, the Civil Revision Petition is allowed setting aside the order, dated 24.08.2017, in I.A.No.2088 of 2010 in O.S.No.259 of 2008 on the file of the VIII Additional Senior Civil Judge, Ranga Reddy District at L.B.Nagar, and trial Court is directed to peruse the order of this Court in C.R.P.No.1778 of 2016, dated 27.01.2017, more particularly para No.10 of the order and pass orders as directed by this Court.

Miscellaneous petitions, if any, pending in this Civil Revision Petition shall stand closed. There shall be no order as to costs.

T.SUNIL CHOWDARY, J

JUNE 22, 2018

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Date:22.06.2018