

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

C.R.P No.5221 of 2017

ORDER:

Plaintiffs in O.S.No.46 of 2007, on the file of the Court of the Junior Civil Judge, Alur, Kurnool District, are the petitioners in the present revision filed under Article 227 of the Constitution of India. This revision, calls in question the order dated 27.02.2017 passed by the said Court in I.A.No.399 of 2014 in O.S.No.46 of 2007.

2. Petitioners herein instituted the said suit for declaration of title and possession. In the said suit, the defendants filed a written statement and the Court below framed the issues also and in 2014 the plaintiffs/petitioners herein filed chief affidavits also. At that point of time, the present application i.e., I.A.399 of 2014 came to be filed under Order 6 Rule 17 of the Code of Civil Procedure on 10.11.2014 praying for amendment of the written statement.

3. Plaintiffs/petitioners herein contested the said interlocutory application by filing counter. The learned Junior Civil Judge, allowed the said application by way of the order under challenge.

4. Heard Sri L.Ravi Kumar, learned counsel for the petitioners/plaintiffs and Sri K.Sita Ram for the third respondent apart from perusing the material available before the Court.

5. According to the learned counsel for the petitioners the questioned order is erroneous, contrary to law and is opposed to the very spirit and object of the provisions of Order 6 Rule 17 of the Code of Civil Procedure. It is further contended that had the contents of the counter filed by the

plaintiffs/petitioners herein before the Court below opposing the application been considered from a proper perspective, the order impugned in the present revision would not have emanated. It is further submitted that the learned Junior Civil Judge passed the order under challenge without assigning any proper and valid reasons.

6. Per contra, it is contended by the learned counsel for the respondents that there is no error nor there exists any infirmity in the impugned order, as such, the order impugned does not warrant any interference of this Court under Article 227 of the Constitution of India. It is further submitted that the amendments proposed by the respondents herein are highly essential and relevant for the purpose of just and proper decision in the suit.

7. In the above backdrop, now the issue that falls for consideration of this Court is_ "Whether, the order passed by the Court below is sustainable and tenable or whether the same warrants interference of this Court under Article 227 of the Constitution of India?"

8. The respondents herein filed the present I.A.399 of 2014 under Order 6 Rule 17 of the Code of Civil Procedure praying for a number of amendments to the written statement. In fact, resisting the said amendments proposed by the defendants, the plaintiffs/petitioners herein filed a counter. A copy of the counter filed by the plaintiffs/petitioners in the said interlocutory application is placed on record. In the said counter, the petitioners herein raised a number of grounds opposing the application. A perusal of the questioned order reveals that the learned Judge did not consider various averments in the said counter nor answered the same. In the considered opinion of this Court, the reasons assigned by the learned Judge for allowing the application cannot be sustained in the eye of law. The

issue in the definite opinion of this Court requires re-consideration by the Court below.

9. For the aforesaid reasons, revision is allowed, setting aside the order dated 27.02.2017 passed by the Court of the Junior Civil Judge, Alur, Kurnool District in I.A.No.399 of 2014 in O.S.No.46 of 2007 and the matter is remanded to the Court below for fresh consideration, strictly in accordance with law, after giving opportunity to all the stake holders. As a sequel, the miscellaneous petitions, if any, shall stand disposed of. There shall be no order as to costs.

Date:09.03.2018
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A.V.SESHA SAI, J



THE HON'BLE SRI JUSTICE A.V.SESHA SAI



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Dated 09.03.2018

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