

HON'BLE SRI JUSTICE D.V.S.S. SOMAYAJULU

CRP No. 662 of 2017

O R D E R :

This civil revision petition is filed against the order dated 03.01.2017 in IA.No.298 of 2014 in OS.No.193 of 2002 on the file of the Court of the Senior Civil Judge, Nalgonda.

The application is filed under the provisions of Order VI Rule 14-A (5) of the Civil Procedure Code (C.P.C) for stay of the suit on the ground that the petitioner furnished a wrong and incomplete address. The respondent filed a counter objecting to the application mentioning among other things that in the written statement filed, no objection taken about the incorrectness of the plaintiff's address etc. The lower Court, after due enquiry, held that the application is not maintainable and dismissed the application. It is this order that is challenged in the civil revision petition.

Learned counsel for the petitioner argued that during the course of cross-examination of PW.1 on 12.08.2013, they have discovered that the address furnished by him is wrong. As per the learned counsel, they have sent Ex.A.4 notice on 13.04.2012, which was received by the plaintiff at his house address. Therefore, the learned counsel contends that the address furnished is false and that the suit should be stayed under the provisions of Order VI Rule 14-A (5) of C.P.C. A copy of the affidavit is also annexed as a material paper to the civil revision petition. The affidavit is absolutely silent as to

the prejudice caused or likely to be caused to the petitioner if the correct address is not furnished.

Order VI Rule 14-A of C.P.C. deals with the address for service of notice. Order VI Rule 14-A of C.P.C. states that every pleading should be accompanied by a statement in the prescribed form mentioning the address of the party. This address shall be treated as the “registered address” of the party. If any changes are made or if any changes occur, the same should also be notified to the Court for service of process etc. This address is to remain valid for a period of two years after final determination of the suit. In addition, Order VI Rule 14-A (8) of C.P.C. also states that nothing shall prevent the Court from directing the service of process at any other address. When this Rule is examined in its totality, it is clear that to prevent false or incomplete addresses from being given and to facilitate service of notices, this Rule has been introduced. Therefore, when the Court “discovers” that the address is false, incomplete or fictitious, the Court may, on its own or on the application of a party, take certain steps. In case the Court discovers that the address furnished by the plaintiff is false, it can stay the suit. In case such a false address is furnished by the defendant, the defence of the defendant can be struck off. After such an order is passed, an opportunity is given to the party to furnish the said correct address and get the order of stay or striking off defence reversed. This is provided for in Order 14-A (6) of C.P.C. The

Court, if it is satisfied that the failure to furnish the true address is due to sufficient reasons, it can again proceed with the suit.

Therefore, a reading of the entire Order VI of C.P.C., makes it clear that the purpose of the Rule is to ensure that the correct address is furnished by the parties to the suit so that service of summons etc., can be effected. The duty is cast upon the parties to be vigilant and to bring it to the notice of the Court if the address is false, fictitious or incomplete. In the present case, there is no clear allegation in the affidavit filed as to why the address is incomplete and/or fictitious.

This Court also finds from a reading of the Rule that a duty is cast upon the Registry of the Court to insist that an appropriate memo or document should be filed giving the registered address of the party. If this is discovered to be wrong, false or fictitious, then the Court can take coercive steps which are couched in mandatory language under Order VI, Rule 14-A (5) of C.P.C. Therefore, the mere fact that a party changed his house or changed his address during the course of the trial or during the course of the time when the matter is in Court, the orders contemplated under Order VI Rule 14-A (5) (a) and (b) of C.P.C cannot be passed. After the registered address is furnished and the same is discovered to be incomplete, false or fictitious the Court may pass orders under Order VI Rule 14-A (5) (a) and (b) of C.P.C.

This Court derives support from the judgment reported in ***Yellappa by his Lrs v. Smt. Yashodabai***¹, wherein, a learned single Judge of the Karnataka High Court also noted that the provisions of this Rule and stated that the Court should insist on the strict compliance of this Rule at the initial stage itself and should ensure that the plaintiff/defendant furnishes the correct and complete registered address.

Considering the scope and object of the Rule, this Court is of the opinion that Order VI Rule 14-A (5) (a) and (b) of C.P.C. is not attracted in this case. Unless it is shown that the registered address that is mentioned specifically by the plaintiff is discovered to be false, incomplete or fictitious, the extraordinary remedy of stay of the suit cannot be insisted upon.

The order of the lower Court is correct and this Court feels that the application is filed only to delay and protract the trial.

Accordingly, the civil revision petition is dismissed by upholding the order of the lower Court. No order as to costs.

Consequently, miscellaneous petitions, if any, pending in this civil revision petition shall stand closed.

D.V.S.S. SOMAYAJULU, J

Date: 22.01.2018
KLP

¹ AIR 2004 Kant 388