

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

CIVIL REVISIOIN PETITION No.3606 OF 2018

ORDER :

This Civil Revision Petition is filed against order dated 07.06.2018 in I.A.No.750 of 2016 in O.S.No.408 of 2010, wherein and whereby the application of the petitioners filed under Order VI Rule 17 of CPC read with Section 28 of Civil Rules of Practice, to amend the written statement was dismissed.

Heard learned counsel for the petitioners, who submits that though the petitioners filed written statement, the Court below has not considered the said aspect and dismissed the application filed by the petitioners for amendment of the written statement on the ground that petitioners have not filed written statement.

In this case, it is to be seen that the application filed by the petitioners for amendment of written statement was dismissed not only on the ground that the petitioners have not filed written statement but also on the ground that the plaintiff's side evidence was closed on 27.04.2016 and posted for the evidence of defendant and that the application is filed only to fill up the lacunae in the cross-examination that too, basing on some suggestions to P.W.1, which is prejudicial to the other side. The trial Court also relied on the judgments reported in **Motamarri Murali Mohanarao and Motamarri Ramachandra Rao and others**¹ and

¹ 2018 (2) ALT 439

Vantipalli Surya Venkata Satya Prasad v. Gangumalla Surya Kantham and others².

It is not in dispute that the petitioners filed written statement, but the fact remains that plaintiff's evidence was closed on 27.04.2016 and the matter is coming up for defendant's side evidence from 06.06.2016 onwards. Suit is of the year 2010 and the trial commenced long back and as per proviso to Order VI Rule 17 of CPC no application for amendment shall be allowed after the trial has commenced unless the Court comes to the conclusion that in spite of due diligence the party could not have raised the matter before the commencement of trial, but in this case, the ground for amendment of written statement is basis of cross examination of P.W.1 and court below also observed the same and dismissed the application.

In view of the same, I do not see any error or illegality in the order passed by the Court below by exercising the power of review under Article 227 of the Constitution of India.

Accordingly, the Civil Revision Petition is dismissed. There shall be no order as to costs. As a sequel thereto, miscellaneous petitions, if any, pending in this Civil Revision Petition, shall stand closed.

A.RAJASHEKER REDDY, J

29.06.2018
kvs

² 2016 (4) ALT 581

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kvs

