

THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

C.R.P.No.4141 of 2017

ORDER:

Aggrieved by the order of the trial Court allowing an application for filing additional documents only in part, the plaintiff, who sought reopening of evidence of PW.1 and who also sought to mark certain documents, has come up with the above revision.

2. Heard Mr. G. Seenar Kumar, learned counsel for the petitioner and Mr. V. Srinivas, learned counsel for the respondents.

3. The petitioner, who is the plaintiff in the suit, took out two applications one in I.A.No.5 of 2016 for reopening the evidence of PW.1 and another in I.A.No.6 of 2017 for continuation of chief examination of PW.1 for marking certain documents. The trial Court allowed I.A.No.5 of 2017 in full and allowed I.A.No.6 of 2017 in part, permitting the petitioner to mark only those documents mentioned in the affidavit in lieu of chief examination. Aggrieved by the limited relief granted to him, the plaintiff is before me.

4. The only ground, on which the trial Court refused to allow the petitioner to file all documents, is that the petitioner had earlier given an undertaking at the time of seeking restoration of the suit that was dismissed for non-prosecution, not to produce further documents.

5. It appears that the suit was dismissed for default on 11.07.2016. I.A.No.90 of 2016 was filed by the petitioner for reopening. In the said I.A., following order was passed.

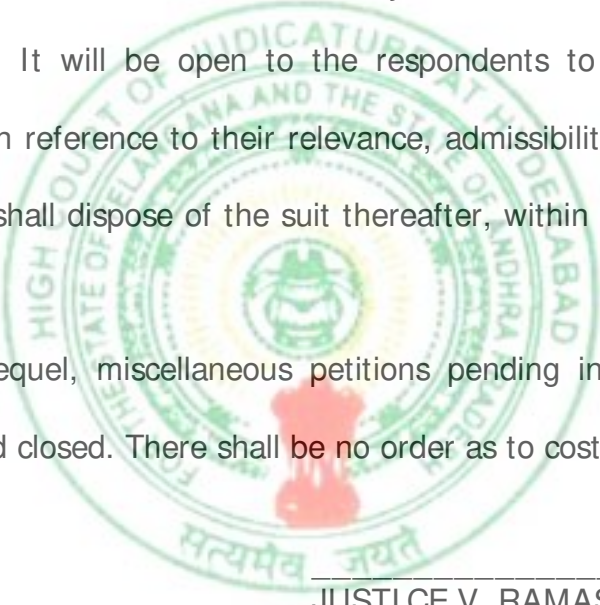
“Petitioner present. Though if the main suit is restored, it is at the stage of continuation of marking of documents, reported that petitioners did not get further documents and petitioner may be cross examined on the evidence already received, noting the same, the suit is restored.”

6. Therefore, the trial Court was of the opinion that the above order barred the petitioner from filing further documents.

7. But I do not think so. The undertaking given in I.A.No.90 of 2016 is not to be read as an undertaking not to file further documents. It is only a matter of reporting to the Court at that time that there were no documents available. Therefore, the order of the trial Court deserves to be modified.

8. Accordingly, the Civil Revision Petition is allowed, modifying the order of the trial Court and directing the trial Court to permit the petitioner to file all those documents, subject to their admissibility, proof and relevance. It will be open to the respondents to object to those documents with reference to their relevance, admissibility and proof, and the trial court shall dispose of the suit thereafter, within a period of three months.

9. As sequel, miscellaneous petitions pending in this revision, if any, shall stand closed. There shall be no order as to costs.



JUSTICE V. RAMASUBRAMANIAN

5th January, 2017
Js.

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