

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

CIVIL REVISION PETITION No.4052 of 2018

ORDER:

This civil revision petition is filed against the order dated 05.06.2018 passed by the Principal Junior Civil Judge, Punganur, in IA.No.211/2018 in OS.No.250/2009 wherein and whereby the petition filed by the petitioner under Section 151 CPC seeking permission to file written statement for the counter claim filed by the respondents/defendants, is dismissed.

Learned counsel for the petitioner submits that though the written statement-cum-counter claim is filed on 07.04.2010, but the said fact was not brought to the notice of the petitioner by his counsel, and only when the chief affidavit o P.W.1 was prepared, petitioner's counsel came to know about the same and filed application immediately. But, without considering the said plea his application is dismissed.

On the other hand, learned counsel for respondents submits that the suit is of the year 2009 and the written statement-cum-counter claim is served on the counsel for the petitioner on 07.04.2010 and counsel for petitioner made an endorsement stating that they will file rejoinder to the same. But, without filing any written statement, the petitioner filed petition in the year 2018 after lapse of 8 years. Lower Court

has considered the said aspect in proper perspective and rightly passed orders.

In this case it is to be seen that admittedly, suit is of the year 2009 and written statement is filed by the respondents by raising counter claim on 07.04.2010 and the same is served on the counsel for the petitioner, who also made an endorsement that they are going to file rejoinder to the same. Thereafter, the matter underwent several adjournments and it is now coming for trial. At this stage, the petitioner filed present petition seeking permission to file written statement to the counter claim filed by the respondents/defendants. There is almost a delay of 8 years in filing the said application.

For the sake of convenience, Order 8 Rule 1 CPC is extracted hereunder, which reads as follows:

“The defendant shall, within thirty days from the date of service of summons on him, present a written statement of his defence, provided that where the defendant fails to file the written statement within the said period of thirty days, he shall be allowed to file the same on such other day, as may be specified by the Court, for reasons to be recorded in writing, but which shall not be later than ninety days from the date of service of summons.”

The Court below after considering the aforesaid provision and after considering the facts and circumstances, dismissed the application.

In view of the same, this Court is of the opinion that there is no illegality or infirmity in the order passed by the

Court below warranting interference by this Court under Article 227 of the Constitution of India.

Accordingly, the CRP is dismissed. No order as to costs. Consequently, miscellaneous petitions, if any, pending in this CRP shall stand closed.

A.RAJASHEKER REDDY, J

16-11-2018
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Date: 16.11.2018

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