

HON'BLE SRI JUSTICE C.PRAVEEN KUMAR

CIVIL REVISION PETITION Nos. 5164 and 5167 of 2018

COMMON ORDER:

- 1) C.R.P.No.5164 of 2018 is filed, against the endorsement dated 04.08.2018 passed in I.A.(SR) No.1950 of 2018 in O.S.No.62 of 2011 on the file of the V Additional District Judge, East Godavari District, Rajamahendravaram, wherein an application filed under Order VI Rule 17 and 28 read with Section 151 of C.P.C. seeking amendment of prayer portion and also the valuation para of the plaint, was returned.
- 2) C.R.P.No.5167 of 2018 is filed, against the endorsement dated 04.08.2018 passed in I.A.(SR) No.1951 of 2018 in O.S.No.62 of 2011 on the file of the V Additional District Judge, East Godavari District, Rajamahendravaram, wherein an application filed under Section 151 of C.P.C., to re-open the suit for amendment of the schedule, was returned.
- 3) Since the issue involved in all the Civil Revision Petitions filed under Article 227 of the Constitution of India, is interconnected, they are disposed of by this common order.
- 4) The petitioners herein filed declaration suit ie. O.S.No.62 of 2011, to declare them as absolute owners of the plaint schedule properties and hand over possession, by removing un-authorised constructions made by the defendants together with future profits and damages thereon. Pending suit, the petitioners filed two

applications ie. to re-open the suit and to amend the prayer portion and valuation para.

5) It is to be noted that the trial Court returned both the applications on the ground that “the suit is reserved for judgment and it is old and identified matter. Hence returned”. Challenging the same the present Civil Revision Petitions came to be filed.

6) Learned Senior Counsel appearing for the petitioners mainly contended that when the petitions are filed seeking relief, the Court cannot simply return the application on the ground that the suit is reserved for judgment. The Court has to consider the petitions and gave a finding as to whether the applications came to be made with due diligence or otherwise.

7) The Government Pleader for Appeals, would also submit that the Court cannot simply return the same.

8) Having regard to the facts and circumstances of the case, the order of the Court below in returning of the said applications on the ground that the case is reserved for judgment and that it is old and identified matter appears to be incorrect. Hence, the orders under challenge are *set aside* and the matters are remanded back to the trial Court, with a direction to dispose of the applications by giving a specific finding as to whether the petitioners are justified in making the applications at a belated

stage and whether the same warrants interference at this stage, if the judgment in the suit is not yet pronounced.

9) With the above direction, both the Civil Revision Petitions are disposed of. There shall be no order as to costs. As a sequel thereto, Miscellaneous Petitions pending if any, shall stand closed.

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JUSTICE C. PRAVEEN KUMAR

17.09.2018

Note: Issue C.C. by evening.

B/o

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