

HON'BLE SRI JUSTICE S.V.BHATT

Civil Revision Petition Nos.1033 of 2013 & 1113 of 2013

Common Order:

The defendants in O.S. No.358 of 2011 are the revision petitioners. C.R.P. No. 1033 of 2013 is directed against the order dated 28.2.2013 in C.F.R. No. 2394 of 2013 in O.S. No. 358 of 2011 in the Court of the Additional Senior Civil Judge, Kurnool. C.R.P. No. 1113 of 2013 arises from the order dated 6.3.2013 in C.F.R. No. 2508 of 2013 in O.S. No.358 of 2011.

2. Before advertng to the prayers in the applications pending in C.F.R. Nos. 2394 of 2013 and 2508 of 2013, for convenience, this Court refers to an antecedent application filed by the revision petitioners in I.A. No. 90 of 2012. The revision petitioners filed I.A. No. 90 of 2012 under Order 7 Rule 11 of C.P.C to reject the plaint in O.S. No. 358 of 2011. The revision petitioners, since were pressing for rejection of plaint through I.A. No. 90 of 2012, did not file written statement. On 21.12.2012, I.A. No. 90 of 2012 was dismissed. The revision petitioners thereafter filed these two applications in C.F.R. Nos. 2394 of 2013 and 2508 of 2013. The application in C.F.R. No.2394 of 2013 is filed under Section 148 C.P.C. seeking extension of time for filing written statement, whereas the application in C.F.R. No. 2508 of 2013 is filed under Order 9 Rule 7 C.P.C. for setting aside the ex-parte order dated 28.2.2013. Both were dismissed.

3. Mr. P. Sri Raghu Ram, learned Senior Counsel contends that the application filed under Order 7 Rule 11 of C.P.C. was pending before the trial Court, at that stage calling upon the revision petitioners to file written statement and forfeiting their right to file written statement or setting the

revision petitioners ex-parte, amounts to illegal exercise of jurisdiction by the trial Court. The time spent in prosecuting the prayer in I.A. No. 90 of 2012, the learned trial Judge by taking a practical view of the matter, ought to have taken note of time spent in prosecuting I.A. No. 90 of 2012, and granted extension to file written statement instead of setting the revision petitioners ex-parte.

4. I have perused the orders under revision. Prima facie, this Court is of the view that after rejecting the prayer in I.A. No. 90 of 2012, the learned trial Judge ought to have numbered this I.A., afforded opportunity to the revision petitioners to file written statement and allowed them to contest the Suit. The reasons in the orders under revisions are unsustainable.

5. Mr. J.U.M.V. Prasad also does not seriously resist the prayers in these two applications. He, however, makes a request to direct the trial Court to dispose of the Suit as expeditiously as possible and within the time this court stipulates in this behalf.

6. Having regard to the above, I am satisfied that the Civil Revision Petitions can be ordered as follows:

(a) The orders under revision are set aside. The order setting the revision petitioners ex-parte, is set aside and time to file written statement is granted.

(b) The revision petitioners are given six (6) weeks time from today to file written statement in O.S. No. 358 of 2011.

(c) The respondent filed O.S. No.358 of 2011 and the trial of the Suit could not be proceeded with on account of pendency of interlocutory

applications and the stay granted by this Court. The trial Court, hence, keeping in view the year in which the Suit was filed considers and disposes of the Suit by affording reasonable opportunity to both parties as expeditiously as possible, preferably within six (6) months from the date of receipt of a copy of this order.

Consequently, pending miscellaneous applications shall also stand closed. No costs.

S.V.BHATT, J

Date: 28th November, 2018

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