THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

Civil Revision Petition No.732 of 2019

ORDER:

This Civil Revision Petition, under Article 227 of the Constitution of India, is filed by the petitioner/plaintiff, challenging the docket order, dated 31.12.2018, passed in I.A.No.974 of 2018 in O.S.No.28 of 2016 by the I Additional Junior Civil Judge, Cyberabad, Kukatpally at Prasanthnagar, whereby, the petition filed by the respondents/defendants under Section 151 of CPC praying the Court below to reopen the case to adduce evidence on their behalf, was allowed, subject to payment of costs of Rs.500/- to the petitioner/plaintiff.

2. Heard the learned counsel for both sides and perused the record.

3. The learned counsel for the petitioner/plaintiff would contend that no reasons were assigned by the Court below in allowing the subject interlocutory application. The impugned order is bereft of reasons. Moreover, no justifiable cause has been shown by the respondents/defendants to reopen the case to adduce evidence on their behalf. The Court below ought to have dismissed the subject interlocutory application and ultimately prayed to set aside the order under challenge and allow the Civil Revision Petition as prayed for.

4. On the other hand, the learned counsel for the respondents/defendants would contend that inadvertently, the advocate on record for the respondents/defendants did not file certain documents, which were handed over to him by the respondents/defendants, before the Court below along with the written statement. Having noticed the same at a later stage, the respondents/defendants filed the subject interlocutory application to reopen the case to adduce the evidence on behalf of defendants. The Court below allowed the subject interlocutory application, assigning reasons. There is no perversity in the order under challenge and ultimately prayed to dismiss the Civil Revision Petition.

5. As seen from the record, there is specific mention in the affidavit filed in support of the subject interlocutory application that inadvertently, the advocate on record for the respondents/defendants before the Court below did not file certain documents into the Court below, which were handed over to him by the respondents/defendants, along with written statement. Having noticed the same at a later stage, the respondents/ defendants filed the subject interlocutory application and the Court below allowed the said application, assigning reasons. Moreover, in a suit for perpetual injunction, the plaintiff has to make out his case by leading cogent and convincing evidence. Substantial

issues are required to be dealt with. It is not necessary to go into the technicalities. The reasons assigned in the accompanying affidavit filed in support of the subject interlocutory application demonstrate justifiable cause. The Court below, having considered the same, exercised the jurisdiction vested in it and allowed the subject interlocutory application. There is no illegality or perversity in the order under challenge. The Civil Revision Petition is devoid of merit and is liable to be dismissed.

6. Accordingly, the Civil Revision Petition is dismissed. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this Civil Revision Petition, shall stand closed.

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Dr. SHAMEEM AKTHER, J

01st November, 2019
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