

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

CIVIL REVISION PETITION No.1562 and 1733 of 2019

COMMON ORDER:

Since the facts of the case, parties and the issue involved in both these Civil Revisions Petitions are similar, both these revisions are being disposed of by this common order.

2) These two Civil Revision Petitions are filed under Article 227 of the Constitution of India, by the petitioners/defendant Nos.2 to 4, seeking to direct the learned II Additional District Judge (FTC), Mancheri, to hear and dispose of I.A.Nos.253 and 254 of 2018 in O.S.No.16 of 2018, afresh without reference to the orders kept in the sealed cover by the predecessor officer vide docket proceedings dated 27.02.2019.

3) Heard Sri Vedula Srinivas, learned counsel for the revision petitioners and Sri D.Prakash Reddy, learned Senior Counsel, appearing on behalf of Ms. Madhuri Kuchadi, learned counsel for the respondents and perused the record.

4) Learned counsel for the revision petitioners contended that though there is an interim order dated 25.02.2019 passed in I.A.No.159 of 2019 in Transfer O.P.No.2 of 2019 by the Principal District Judge, Adilabad, wherein interim stay of all proceedings in O.S.No.16 of 2018 on the file of II Additional District Judge (FTC), Mancheri, was granted till 05.03.2019, the Court below prepared the orders in I.A.Nos.253 and 254 of 2018 in O.S.No.16 of 2018 and kept them in a sealed cover for

pronouncement. The Presiding Officer ought not have prepared the orders in the subject Interlocutory Applications and kept them in sealed covers during the operation of the interim stay orders, which is erroneous and ultimately prayed to set aside the impugned docket orders by allowing the revision petitions.

5) On the other hand, learned Senior Counsel appearing for the respondent No.1/plaintiff would contend that in view of the interim stay granted by the Principal District Judge, Adilabad vide order dated 25.02.2019 in I.A.No.159 of 2019 in T.O.P.No.2 of 2019, the Court below was right in not pronouncing the orders prepared in the subject Interlocutory Applications and handing over them to the successor-in-office, in a sealed cover. It is further contended that the said interim order stands vacated as the Transfer O.P.No.2 of 2019 was dismissed on merits vide order dated 17.07.2019. Further, in terms of Section 33 of CPC, the Judge, who heard the case is required to pronounce the orders and as per Order XX Rule 2 of CPC, the successor Judge can pronounce a judgment written, but not pronounced, by his predecessor. There is no perversity or illegality in the impugned docket orders and ultimately prayed to dismiss both the revision petitions.

6) As per the material placed on record, there is no dispute with regard to the keeping of the orders prepared in the subject I.A.Nos.253 and 254 of 2018 in O.S.No.16 of 2018 in sealed covers as contended, since the Judge, who prepared the orders retired from service on attaining superannuation. Here, it apt

and appropriate to extract Section 33 of CPC and Order XX Rules

1 and 2 of CPC, which reads as follows:

“ Section 33. Judgment and decree: The Court, after the case has been heard, shall pronounce judgment, and on such judgment a decree shall follow.

Order XX Rule 1 - Judgment when pronounced

(1) The Court, after the case has been heard, shall pronounce judgment in an open Court, either at once, or as soon thereafter as may be practicable and when the judgment is to be pronounced on some future day, the Court shall fix a day for that purpose, of which due notice shall be given to the parties or their pleaders:

Provided that where the judgment is not pronounced at once, every endeavour shall be made by the Court to pronounce the judgment within thirty days from the date on which the hearing of the case was concluded but, where it is not practicable so to do on the ground of the exceptional and extraordinary circumstances of the case, the Court shall fix a future day for the pronouncement of the judgment, and such day shall not ordinarily be a day beyond sixty days from the date on which the hearing of the case was concluded, and due notice of the day so fixed shall be given to the parties or their pleaders.

(2) x x x x.

(3) x x x x.

Rule 2. Power to pronounce judgment written by judge's predecessor:

A Judge shall pronounce a judgment written, but not pronounced, by his predecessor.”

In the instant case, admittedly, vide order dated 25.02.2019 in I.A.No.159 of 2019 in Transfer O.P.No.2 of 2019, the learned Principal District Judge, Adilabad, granted interim stay of all further proceedings in O.S.No.16 of 2018 pending on the file of II Additional District Judge (FTC), Adilabad till 05.03.2019 and thereafter, the said interim order stands vacated as the Transfer O.P.No.2 of 2019 was dismissed on merits vide order dated 17.07.2019.

7) It is the case of the revision petitioners that vide memo dated 26.02.2019, they have brought to the notice of the trial Court with regard to the granting of interim stay on 25.02.2019 in I.A.No.159 of 2019 in Transfer O.P.No.2 of 2019 by the Principal District Judge, Adilabad. A copy of the said memo filed before this Court reveals the same.

8) Pursuant to the orders passed by this Court, vide docket order dated 25.10.2019, the information called for by the Registry reveals that orders were prepared in I.A.Nos.253 and 254 of 2018 in O.S.No.16 of 2018 on the file of II Additional District Judge (FTC), Mancherial and kept in a sealed cover and the information also reveals that the said orders were prepared before filing of the memo dated 26.02.2019. There is also indication vide docket order dated 27.02.2019 passed in the subject Interlocutory Applications that the orders were not pronounced due to the order of stay. Since the Officer has to retire on attaining the age of superannuation, the orders prepared were kept in the sealed cover for pronouncement by successor officer in interest. Moreover, the Transfer O.P.No.2 of 2019 was dismissed on merits vide order dated 17.07.2019. So the interim order merged into final order. In terms of Section 33 of CPC, the Judge, who heard the matter has to pronounce the orders and as per Order XX Rule 2 of CPC, the successor Judge can pronounce a judgment written, but not pronounced, by his predecessor.

9) Under these circumstances, the submissions made on behalf of the revision petitioners are unsustainable. There is no perversity or illegality in the impugned docket orders. There are no merits in both the revision petitions and they are liable to be dismissed.

10) Accordingly, both the Civil Revision Petitions are dismissed and the Court below is directed to pronounce the orders prepared in I.A.Nos.253 and 254 of 2018 in O.S.No.16 of 2018 on the file of II Additional District Judge (FTC), Mancherial, which are kept in sealed cover, forthwith. No order as to costs.

Miscellaneous petitions, if any, pending in these two revision petitions are closed.

Dr. SHAMEEM AKTHER, J

Date: 24th December, 2019.

Note:

- 1) Issue C.C today.
- 2) Registry is directed to send a copy of this order to the Court below today.

(b/o)
scs