

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

CIVIL REVISION PETITION No.2612 of 2019

ORDER:

This Civil Revision Petition, under Section 115 of the Code of Civil Procedure, 1908 (for short, 'C.P.C'), is filed aggrieved by the order, dated 01.08.2019, passed in I.A.No.1065 of 2019 in O.S.No.242 of 2018 by the Principal Junior Civil Judge, Medak at Sangareddy, wherein, the application filed under Order XXIII Rule 1 C.P.C., seeking to permit the respondent herein/plaintiff to withdraw the suit by reserving the right to take separate legal steps, was allowed.

2. Heard the learned counsel for the petitioner/defendant and perused the record.

3. Learned counsel for the revision petitioner/defendant would submit that in the affidavit filed in support of the aforesaid Interlocutory Application, there is no specific mention of any justifiable reason to allow the application. It is further submitted that the Court below without there being any justifiable reason, allowed the subject IA, which is erroneous. In support of his contention, he placed reliance on the following decisions reported in K.K.Bhoopathy and others v. Kokila and others<sup>1</sup> and K.Chenuchu Lakshmi v. P.Raja Reddy and others<sup>2</sup> and ultimately, prayed to set aside the impugned order by allowing the Civil Revision Petition.

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<sup>1</sup> (2000) 5 Supreme Court Cases 458

<sup>2</sup> 2017 (6) ALT 667

4. In view of the above submissions, the point for determination is:

*“Whether the impugned order, dated 01.08.2019, passed in I.A.No.1065 of 2019 in O.S.No.242 of 2018 by Principal Junior Civil Judge, Medak at Sangareddy, is liable to be set aside?”*

5. POINT:

The respondent/plaintiff filed a suit in O.S.No.242 of 2018 on the file of Principal Junior Civil Judge, Medak at Sangareddy, for Mandatory Injunction in respect of the suit schedule property and was coming up for framing of issues. It is relevant to state that the respondent/plaintiff filed an application in I.A.No.1193 of 2018 in O.S.No.242 of 2018 seeking amendment with regard to some typographical mistakes crept in the plaint. The said Interlocutory Application was dismissed vide order, dated 11.10.2018. Thereafter, the subject application in I.A.No.1065 of 2019 was filed. In the affidavit filed in support of subject IA, there is a specific mention that there are some typographical mistakes in the plaint and that led to withdrawal of the subject suit. The Court below has discussed the contentions raised and allowed the subject IA permitting the respondent/plaintiff to withdraw the suit with liberty to file a fresh suit.

6. It is not in dispute that the amendment application filed by the respondent/plaintiff was dismissed by the Court below. Thereafter, the respondent/plaintiff filed the subject IA for withdrawal of the suit. The Court below while dealing with the subject IA, has also perused the pleadings in I.A.No.1193 of

2018 and rightly passed an elaborate reasoned impugned order. The decisions relied upon by the learned counsel for the petitioner are distinguishable from the facts and circumstances of the case on hand.

7. In the given circumstances, granting of liberty to file a fresh suit would not fill up the lacunas. Therefore, there is no infirmity or perversity found in the impugned order. The civil revision petition is devoid of merit and the same is liable to be dismissed.

8. Accordingly, the Civil Revision Petition is dismissed at the stage of admission.

Miscellaneous petitions, if any, pending in this revision petition shall stand closed. There shall be no order as to costs.

13<sup>th</sup> November, 2019

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Dr. SHAMEEM AKTHER, J

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Date:13.11.2019

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