

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

CIVIL REVISION PETITION No.5417 OF 2017

ORDER:

This Civil Revision Petition, under Article 227 of the Constitution of India, is filed by the revision petitioners/plaintiffs aggrieved by the order, dated 03.02.2017, passed in I.A.No.973 of 2016 in O.S.No.735 of 2008 by the Additional Junior Civil Judge, Kukatpally at Miyapur, Ranga Reddy District, wherein the Court below has dismissed the subject Interlocutory Application filed by the revision petitioners/plaintiffs, under Order VIII Rule 9 C.P.C., seeking to grant leave to the revision petitioners/plaintiffs to file rejoinder to answer the various new allegations and new pleas raised by the respondents/defendants in their written statement.

2. Heard learned counsel for the revision petitioners/plaintiffs and perused the record.

3. There is no representation on behalf of the respondent/defendant No.1.

4. Learned counsel for the revision petitioners/plaintiffs would submit that the Court below was pleased to dismiss the subject Interlocutory application on the ground that the delay is of paramount consideration. The revision petitioners/plaintiffs sought to file rejoinder only to bring certain facts to the notice of the Court. In the given circumstances, the Court below ought to have allowed the subject Interlocutory Application and

ultimately, prayed to set aside the impugned order by allowing the Civil Revision Petition.

5. Learned counsel for the revision petitioners/plaintiffs, in support of his submissions, relied on the decisions in Aloor Subrahmanyam v. Suthram Prabhakar and another¹, M. Kondaiah v. Union of India and others² and S. Venkata Ramanaiah and another v. S. Venkateswarlu Gupta and others³.

6. As seen from the material placed on record, the written statement in the subject Suit was filed by the respondents/defendants in the year 2002, after due notice to the revision petitioners/plaintiffs, whereas the subject Interlocutory Application was filed in the year 2016, with a delay of 14 years. Only an averment was made in the affidavit filed in support of the subject Interlocutory Application that the counsel appearing for the revision petitioners/plaintiffs before the Court below could not attend the Court due to ill-health for one and a half years.

7. In Aloor Subrahmanyam's case (supra 1), the Court held that the approach made by the petitioner therein would help the Court to comprehensively and effectively decide all the questions raised in the case with reference to the complete information furnished by the parties through their original as well as subsequent pleadings. It also held that the Courts have

¹ 2012 (3) ALD 202

² 2010 (3) ALD 85 (DB)

³ 2009 (5) ALD 211

interpreted the provision under Order VIII Rule 9 C.P.C. by reading certain limitations into the same, obviously to ensure that the scope of the proceedings is not unduly enlarged and the suit proceedings are not dragged on in the guise of filing subsequent pleadings. In S. Venkata Ramanaiah's case (supra 3), an application, seeking leave to file additional pleadings, was filed with a delay of two years and it was considered.

8. In the instant case, there is no explanation as to why there was 14 years delay in filing the subject Interlocutory Application. Mistaken impression cannot be a ground to allow an application. Therefore, in the given circumstances, there is no justifiable cause to grant leave to the revision petitioners/plaintiffs, as prayed for. Moreover, the Court below had passed the impugned order by assigning reasons. There is no perversity in the impugned order. The Civil Revision Petition is devoid of merit and is liable to be dismissed.

9. Accordingly, the Civil Revision Petition is dismissed.

Miscellaneous Petitions, if any, pending in this Civil Revision Petition shall stand closed. There shall be no order as to costs.

Dr. SHAMEEM AKTHER, J

December 10, 2019.
MD