

THE HON'BLE Dr.JUSTICE SHAMEEM AKTHER

CIVIL REVISION PETITION Nos.1634 and 1652 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) C.R.P.No.1634 of 2019 is filed under Article 227 of the Constitution of India, by the petitioners/defendants, challenging the order dated 16.04.2019 passed in I.A.No.40 of 2019 in O.S.No.2192 of 2007 by the I Additional Senior Civil Judge, Ranga Reddy District, at L.B.Nagar, wherein the application filed by the petitioners/defendants under Order VI Rule 17 read with Section 151 CPC seeking to amend the written statement by deleting the existing para 7 and inserting the proposed amendments as para 7(a) to 7(g), was dismissed.

3) C.R.P.No.1652 of 2019 is filed under Article 227 of the Constitution of India, by the petitioners/defendants, challenging the order dated 16.04.2019 passed in I.A.No.41 of 2019 in O.S.No.2193 of 2007 by the I Additional Senior Civil Judge, Ranga Reddy District at L.B.Nagar, wherein the application filed by the petitioners/defendants under Order VI Rule 17 read with Section 151 CPC seeking to amend the written statement by deleting the existing para 7 and inserting the proposed amendments as para 7(a) to 7(g), was dismissed.

4) Heard the learned counsel for both sides and perused the record.

5) Learned counsel for the revision petitioners/defendants would contend that the proposed amendments are necessary for determination of the subject suits. The Court below erroneously dismissed the subject Interlocutory Applications. It is also contended that when they were preparing for cross-examination, it was noticed in the written statements that events were not mentioned in chronological order and therefore, they sought the proposed amendments. The proposed amendments would not alter the nature of the subject suits or cause of action. Therefore, the amendments sought ought to have been allowed by the Court below and ultimately prayed to set aside the impugned orders by allowing the civil revision petitions as prayed for. In support of his contention, learned counsel relied upon the following decisions:

- i) *Rajesh Kumar Aggarwal and others vs. K.K.Modi and others*¹
- ii) *Ramesh kumar Agarwal vs. Rajmala Exports Pvt. Ltd and others*²
- iii) *Pankaja and another vs. Yellappa (died) by LRs and others*³
- iv) *Abdul Rehman and another vs. Ruldu and others*⁴
- v) *A. Krishna Rao vs. A. Narahari Rao and others*⁵

¹ 2006 (3) Supreme 507 = (2006) 4 SCC 385

² 2012 (2) Supreme 593 = (2012) 5 SCC 337

³ 2004 (5) Supreme 772 = (2004) 6 SCC 415

⁴ (2012) 11 SCC 341

⁵ 2014 (6) ALD 258

6) On the other hand, learned counsel for the respondents/ plaintiffs would contend that at the belated stage, moreover, when the subject suits are posted for arguments, to protract the proceedings, the subject Interlocutory Applications were filed without there being any justifiable cause. The Court below is justified in dismissing the subject Interlocutory Applications and ultimately prayed to sustain the impugned orders.

7) In view of the submissions made by both sides, the point for determination is:

“Whether the amendments sought for by the petitioners/defendants can be allowed as prayed for?”

8) POINT: It is the case of the revision petitioners/defendants that when they were preparing for the cross-examination, it was observed that events were not mentioned in chronological order in the written statements. Therefore, the petitioners wanted to amend the written statements by adding certain pleas. A perusal of the amendments sought, do not demonstrate that they are necessary for determination of the real controversies and issues in between the parties to the litigation. No genuine or justifiable reason has been assigned by the revision petitioners for filing the subject Interlocutory Applications belatedly, at the stage of arguments. Moreover, the subject suits are filed for specific performance of agreements of sale. The burden would be on the plaintiffs to prove the readiness and willingness to perform their part of contract. Under the guise of proposed amendments, the revision petitioners cannot introduce new stories into the subject

matter of the suits. The reasons given by the Court below in dismissing the subject Interlocutory Applications are sustainable. Nothing new which was not in the knowledge of the revision petitioners by the date of filing of the written statements are figuring in the so-called amendments sought. Therefore, all the submissions made on behalf of the learned counsel for the petitioners are unsustainable. The decisions relied upon by the learned counsel for the revision petitioners are distinguishable from the facts and circumstances of the case on hand. There is no legal infirmity in the impugned orders. This civil revision petitions are devoid of merits and are liable to be dismissed.

9) Accordingly, both the Civil Revision Petitions are dismissed.
No costs.

Pending Miscellaneous Petitions, if any, shall stand closed.

Date: 27th January, 2020.
scs

Dr. SHAMEEM AKTHER, J