

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

CIVIL REVISION PETITION No.2880 of 2018

ORDER:

This Civil Revision Petition, under Article 227 of the Constitution of India, is filed by the petitioners/plaintiffs, challenging the order, dated 29.03.2018, passed in I.A.No.251 of 2018 in O.S.No.2049 of 2006 by the VIII Additional Senior Civil Judge, Ranga Reddy District at L.B.Nagar, whereby, the petition filed by the petitioners/plaintiffs under Order IX Rule 9 of CPC to restore the suit against the proposed defendant No.4 by setting aside the order, dated 26.02.2018, dismissing the suit against the proposed defendant No.4, was dismissed.

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

3. The learned counsel for the petitioners/plaintiffs would contend that during the pendency of the suit proceedings, the respondent No.3 herein/defendant No.3 alienated the plaint schedule property in favour of the proposed defendant No.4. Unless the proposed defendant No.4 is made as a party to the suit, the decree cannot be executed. Therefore, the proposed defendant No.4 is a necessary party to the suit. Due to unavoidable circumstances, amended copy of the plaint could not be filed. The Court below ought to have granted time to file the amended copy of the plaint instead of dismissing the subject Interlocutory Application and ultimately prayed to set aside the order under challenge and allow the subject I.A.No.251 of 2018 as prayed for.

4. On the other hand, the learned counsel for the respondents supported the impugned order and contended that the Court below rightly dismissed the subject Interlocutory Application. There is nothing to interfere with the impugned order and ultimately prayed to dismiss the Civil Revision Petition.

5. Admittedly, substantial issues are required to be determined in the subject suit filed for specific performance of agreement of sale. The petitioners/plaintiffs filed the subject Interlocutory Application to restore the suit against the proposed defendant No.4 by setting aside the order, dated 26.02.2018, dismissing the suit against the proposed defendant No.4. However, the Court below was pleased to dismiss the said interlocutory application. In the given circumstances, since substantial issues are required to be determined in the subject suit, the Court below is unjustified in passing the impugned order, dated 29.03.2018.

6. Accordingly, the impugned order, dated 29.03.2018, passed in I.A.No.251 of 2018 in O.S.No.2049 of 2006 by the VIII Additional Senior Civil Judge, Ranga Reddy District at L.B.Nagar, is set aside. Consequently, I.A.No.251 of 2018 stands allowed as prayed for.

7. The Civil Revision Petition is, accordingly, allowed. There shall be no order as to costs.

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

Dr. SHAMEEM AKTHER, J

23rd January, 2020
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