

HON'BLE SRI JUSTICE A. RAJASHEKER REDDY

**CIVIL REVISION PETITION Nos 2112, 2178 and 2188 of
2019**

COMMON ORDER :

CRP.No.2112 of 2019 is filed against the order, dated 14-09-2019, passed in I.A.No.2074 of 2015 in O.S.No.975 of 2008 wherein and whereby, the Court below dismissed the application filed by the petitioner under Order 32 Rules 2 and 15 read with Section 151 C.P.C. to take off the plaint from the file in respect of plaintiff Nos 1 and 2 in the said suit, who are respondents 1 and 2 herein.

CRP.No.2188 of 2019 is filed against the order, dated 14-08-2019, passed in I.A.No.1362 of 2016 in O.S.No.975 of 2008 wherein and whereby the Court below dismissed the application filed under Order 6 Rule 17 of C.P.C. for amendment of the written statement.

CRP.No.2178 of 2019 is filed against the order, dated 14-08-2019, passed in I.A.No.261 of 2018 in O.S.No.975 of 2008 wherein and whereby the Court below dismissed the application filed under Order 32 Rule 15 read with Section 151 of C.P.C. to refer respondents 1 and 2 herein, plaintiff Nos 1 and 2 in the said suit for medical examination by Medical Board of Institute of Mental Health at Erragadda.

Though the Court below passed the impugned orders separately in all the I.As., but gist of the said orders is same.

In view of the same, I am inclined to deal with all the CRPs together and pass common order.

Learned counsel for the petitioner submits that though medical evidence is produced to show that respondents 1 and 2/plaintiff Nos 1 and 2 are of unsound mind, Exs P.1 to 17 and Ex.P.9 and Exs 1 and 2 are marked regarding the same, without considering the same, the applications are dismissed. He further submits that without leave of the Court, respondents 1 and 2 herein, plaintiff Nos 1 and 2 in the suit, cannot maintain the suit by themselves. He further submits that the petitioner came to know that respondents 1 and 2 were of unsound mind, only after filing of suit and he obtained necessary documents and filed the applications. He also submits that though the said documents were marked, but the same were not considered in proper perspective. The suits by or against persons of unsound mind was taken on file under Order 32 and any judgment obtained against or by them is void.

Heard learned counsel appearing for respondents 1 to 4, who, submits that respondent No.1 is represented by respondents 3 and 4. Heard learned counsel for respondents 7, 8 and 9.

In this case it is to be seen that the impugned orders go to show that several documents were marked as exhibits in proof of unsound mind of respondents 1 and 2, but the same were not considered in proper perspective. It is stated

that Project Director was also examined as PW.2, who stated that respondents 1 and 2 are getting disability pension and through him some documents are marked.

Order 32 provides suits by or against minors and persons of unsound mind. Rules 1 to 4 speaks about suits by minors or against minors. Such provisions are made applicable to the persons of unsound mind by virtue of Order 32. A reading of the impugned orders goes to show that the allegation of the petitioner that respondents 1 and 2 were of unsound mind is not considered. If such allegation is made, the Court below should have to consider the same and conduct enquiry into the unsoundness of mind of a person.

In view of the same, the impugned orders are set aside. The Court below to conduct enquiry to come to conclusion that whether respondents 1 and 2 are of unsound mind, if it is found that they are of unsound mind, appropriate steps will have to be taken before proceeding with the suit.

Accordingly, all the revisions are allowed. The Court below is directed to reconsider the applications of the petitioner and it is also open to respondents 3 and 4 or any other person interested concerning those persons to file application for appointment as guardians of respondents 1 and 2. As a sequel, miscellaneous applications pending, if any, shall stand closed.

A. RAJASHEKER REDDY, J



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ARBITRATION APPLICATION No.97 of 2019



31.12.2019
(Msr)