

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

CIVIL REVISION PETITION No.2946 OF 2019

ORDER:

This revision petition, under Article 227 of the Constitution of India, is filed by the petitioner/defendant aggrieved by the order dated 29.11.2019 passed in I.A.No.1345 of 2019 in O.S.No.356 of 2018 by the Senior Civil Judge, Khammam, whereby the application filed by the revision petitioner/defendant under Order IX Rule 13 of CPC, seeking to set aside the *ex parte* decree dated 22.03.2019 in O.S.No.356 of 2018 was allowed, on condition to deposit sufficient valuable security of suit amount within 15 days and also to pay costs of Rs.5,000/- to the respondent within seven days from the date of the said order.

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

3. Learned counsel for the revision petitioner/defendant submitted that the revision petitioner/defendant paid the costs of Rs.5,000/- to the respondent/plaintiff. It is further submitted that the Court below ought not have directed the revision petitioner/defendant to furnish security for the suit amount. In support of his contention, learned counsel has relied on a decision reported in *Vijay Kumar Madan and others v. R.N. Gupta Technical Education Society and others*¹, wherein it was held that terms imposed by the Court should not be too onerous or vague and the defendant should not end up in a worse position than if he had not filed the application under Order IX Rule 7 of CPC and ultimately prayed to allow the civil revision petition as prayed for.

¹ (2002)5 SCC 30

4. On the other hand, learned counsel for the respondent/plaintiff would contend that condition imposed by the Court below is only with regard to furnishing security but not with regard to deposit of suit amount. The condition imposed by the Court below is sustainable and ultimately prayed to dismiss the revision petition.

5. It is evident from the record that the Court below directed the revision petitioner/defendant to furnish security for the entire suit amount. Learned counsel for the revision petitioner ought not have disputed with regard to deposit of Rs.5,000/- as costs. It is also evident from the record that the other condition imposed by the Court below is onerous. The controversies and issues are required to be determined in the suit with regard to the entitlement of the respondent/plaintiff to recover the suit amount from the revision petitioner/defendant. Pending such determination, the Court below ought not have directed the revision petitioner/defendant to furnish security for the suit amount.

6. Under these circumstances, the impugned order dated 29.11.2019 passed in I.A.No.1345 of 2019 in O.S.No.356 of 2018 by the Senior Civil Judge, Khammam, with regard to the condition of furnishing security of suit amount within fifteen days, is set aside and other conditions imposed stands remained unaltered.

7. The Civil Revision Petition is disposed of accordingly.

The Miscellaneous Petitions, if any, pending shall stand closed.

No costs.

Dr. SHAMEEM AKTHER, J

Date: 10.01.2020
ssp