

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

CIVIL REVISION PETITION No.1287 OF 2017

ORDER:

This revision, under Article 227 of the Constitution of India, is filed by the petitioner/defendant aggrieved by the order dated 06.02.2017 passed in I.A.No.225 of 2016 in O.S.No.609 of 2014 by the II Senior Civil Judge, City Civil Court, Hyderabad, whereby the application filed by the petitioner/defendant under Order VI Rule 17 of C.P.C. to amend the written statement by adding para Nos.9, 10 and 11 after paragraph No.8, was dismissed.

2. Heard learned counsel for the revision petitioner/defendant, learned counsel for the respondent/plaintiff and perused the record.

3. Learned counsel for the revision petitioner/defendant would submit that the subject Interlocutory Application was filed after commencement of trial in the Original Suit. The amendment sought for is necessary to determine the issues framed in the suit. The proposed amendment has bearing over the result of the suit. Therefore, it is necessary to add the proposed paras in the written statement for adjudication of the suit and ultimately prayed to allow the revision petition as prayed for.

4. On the other hand, learned counsel for the respondent/plaintiff would submit that the amendment application was filed belatedly and a new story is invented to get it on record. The proposed amendment is not necessary for adjudication of the suit. In spite of providing opportunity to the revision petitioner, he did not choose to cross-examine P.W.1 and right to cross-examine P.W.1 was forfeited and ultimately prayed to dismiss the revision petition.

5. In view of the submissions made by both sides, the point for determination is:-

“Whether the amendment as sought for by the revision petitioner/defendant can be allowed as prayed for?”

6. POINT:- Admittedly, the subject Interlocutory Application was filed after filing the chief-examination affidavit of P.W.1. In spite of providing several opportunities to the revision petitioner/defendant to cross-examine P.W.1, he did not choose to do so till date. The suit is filed by the respondent/plaintiff for return of caution deposit of Rs.2.65 lakhs by the revision petitioner/defendant with interest @ 18% per annum. In the written statement, the revision petitioner/defendant stated that the suit documents are forged and he denied the execution and receipt of security deposit in toto. He further contended that the suit is barred by limitation.

7. A perusal of para Nos.9, 10 and 11, which are proposed to be brought on record in the written statement, by way of amendment, establish a new story that was pressed into service to defeat the suit of the respondent/plaintiff. It is invented and it is an afterthought. The issue is whether the documents filed in support of the suit are genuine or not. The Court below while dealing with the subject matter of the application, was of the opinion that the proposed amendment, which is a belated one, is not necessary for determination of the suit. The Court below also opined that no case was made out by the revision petitioner/defendant to allow the amendment in terms of Order VI Rule 17 of CPC. This Court is also of the same opinion. The amendment sought is not necessary to come to a just conclusion in

the subject suit. It appears that the same is pressed into service to protract the litigation. The revision petition is devoid of merit and is liable to be dismissed.

8. In the result, the Civil Revision Petition is dismissed.

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

No costs.

Dr. SHAMEEM AKTHER, J

Date: 20.02.2020
ssp

