

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

CIVIL REVISION PETITION Nos.7031 and 7256 of 2017

COMMON ORDER:

Since the facts of the case, parties to the litigation and the contentions involved in both these Civil Revision Petitions are identical, both these Civil Revision Petitions are being disposed of by this common order.

2) C.R.P.No.7031 of 2017 is filed under Article 227 of the Constitution of India, by the petitioners/plaintiffs, challenging the order, dated 13.10.2017 passed in I.A.No.415 of 2015 in I.A.No.367 of 2014 in O.S.No.124 of 2011 by the Senior Civil Judge, Siddipet, wherein, the petition filed under Order IX Rule 9 r/w Sec.151 CPC, to restore the I.A.No.367 of 2014 by setting aside the order dated 20.11.2014, was dismissed.

3) C.R.P.No.7256 of 2017 is filed under Article 227 of the Constitution of India, by the petitioners/plaintiffs, challenging the order, dated 13.10.2017 passed in I.A.No.414 of 2015 in I.A.No.367 of 2014 in O.S.No.124 of 2011 by the Senior Civil Judge, Siddipet, whereby the petition filed under Section 148 r/w Section 151 of CPC, to enlarge time permitting the petitioners to file evidence on their behalf, was dismissed.

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

5) The learned counsel for the revision petitioners/plaintiffs would contend that the Court below is unjustified in passing the

impugned orders, dated 13.10.2017. The Court below ought to have allowed the subject interlocutory applications by considering personal inconvenience of the counsel for revision petitioners/plaintiffs on record. The Court below ought to have taken liberal view and set aside the dismissal order, dated 20.11.2014 passed in I.A.No.367 of 2014. The revision petitioners/plaintiffs have substantial interest in the subject matter of the suit, which is filed for partition and separate possession and ultimately prayed to set aside both the impugned orders and allow both the Civil Revision Petitions as prayed for.

6) On the other hand, learned counsel for the respondents/defendants would contend that inspite of giving ample opportunity to the petitioners/plaintiffs by the Court below, they did not proceed with the suit. The Court below allowed I.A.No.367 of 2014, which was filed to restore the suit, on 30.10.2014 by imposing certain conditions to comply by 20.11.2014. Since the petitioners/plaintiffs did not comply said conditions by 20.11.2014, the Court below rightly dismissed the I.A.No.367 of 2014. The Court below is justified in passing the impugned orders, dated 13.10.2017 and ultimately prayed to dismiss both the Civil Revision Petitions.

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

“Whether the impugned orders dated 13.10.2017 passed in I.A.Nos.414 and 415 of 2015 in I.A.No.367 of 2014 in O.S.No.124 of 2011 by the Senior Civil Judge, Siddipet, are liable to be set aside.”

8) The material placed on record discloses that the subject suit was dismissed vide order dated 12.06.2014 at the stage of commencement of trial. In spite of affording several opportunities to the petitioners/plaintiffs, they did not proceed with the trial of the suit. When the original suit was dismissed on 12.06.2014, they filed I.A.No.367 of 2014 for restoration of suit. The Court below in I.A.No.367 of 2014 vide order dated 30.10.2014 permitted the petitioners/plaintiffs to file undertaking memo to file list of witnesses and to proceed with the trial and posted the matter to 20.11.2014. Despite of the conditional order, the petitioners/plaintiffs did not comply with the condition and proceed with the trial of the suit and hence, the Court below dismissed the I.A.No.367 of 2014. The petitioners/plaintiffs have successfully dragged on the matter till October, 2017. Even though the suit is filed in the year 2011 and trial was commenced long back, the petitioners/plaintiffs did not choose to file undertaking memo to complete trial without delay, nor filed chief affidavits of the witnesses and they have successfully dragged the matter till October, 2017 without assigning reasons for delay in proceeding with trial, except blaming their counsel for no justifiable cause. There is no substance in the submissions made on behalf of the petitioners/plaintiffs. The Court below, vide impugned orders, was pleased to dismiss the subject Interlocutory Applications, by assigning valid reasons. Therefore, the impugned orders do not suffer from any legal infirmities and there is nothing to take a different view.

The Civil Revision Petitions are devoid of merit and are liable to be dismissed.

9) Accordingly, both the Civil Revision Petitions are dismissed.

No order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

Dr. SHAMEEM AKTHER, J

Date: 22nd January, 2020.
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