

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

**THURSDAY, THE NINTH DAY OF FEBRUARY
TWO THOUSAND AND TWENTY THREE**

PRESENT

THE HONOURABLE SRI JUSTICE A. SANTHOSH REDDY

CIVIL REVISION PETITION NO: 7722 OF 2018

Petition Under Article 227 Constitution of India against the Order dated 26/10/2018 in I.A.No.103 of 2018 in O.S.No. 52 of 2014 on the file of the Court of the Junior Civil Judge, Jadcherla.

Between:

M/s. VARP Power Private Limited, Hyderabad-Rep by its Director-
P.Vinay Kumar, S/o. P.Shivakumar, age 46 years, R/o. H.No. 1-4-879/B/4, Plot
No. 4, Mega City, Gandhinagar, Hyderabad.

...PETITIONER/petitioner/Defendant No.1

AND

1. Veldanada Srinivas, S/o. Late Venkat Kishan Rao, Age 45 years, Occ- Pvt., Employee,
2. Ram Kishan Rao, S/o. Late Narsing Rao, Age 36 years, Occ- agriculture,
3. Md. Jahangeer, S/o. Md. Pasha, age 46 years, Occ- agriculture,
4. G.Venkatayya, S/o. G.Murthayya, age 59 years, Occ- Pvt., Employee,

(R 1 to 4 R/o. Bhoothpur Village and Mandal, Mahabubnagar District)

...Respondents/Respondents/Plaintiffs

5. National High Way Authority of India, Plot No.25, Road No.2, Castle Hills, Masab Tank, Hyderabad.
6. The Supt. Engineer (Operation Circle), TSSPDCL, Mettugadda, Mahabubnagar town proper.
7. L&T Western Andra toll ways Ltd, Shakhapur, Addakal Mandal, Mahabubnagar District.

...Respondents/Respondents/Defendant Nos. 2-4

(Respondents 5 to 7 are not necessary parties in this Petition)

CRPMP/IA NO: 1 OF 2018

Petition under Section 151 of CPC praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to stay all further proceedings in OS No.52 of 2014 on the file of the Junior Civil Judge, Jadcherla.

Counsel for the Appellant: SRI. R. HARISH KUMAR, ADVOCATE

Counsel for the Respondents: SRI B. RACHNA, ADVOCATE

The Court made the following: ORDER

THE HONOURABLE SRI JUSTICE A.SANTHOSH REDDY

CIVIL REVISION PETITION NO.7722 OF 2018

ORDER :

This Civil Revision Petition is filed under Article 227 of the Constitution of India, seeking to set aside the Order dated 26.10.2018 passed in I.A.No.103 of 2018 in O.S.No.52 of 2014 by learned Junior Civil Judge, Jadcherla, whereunder the petitioner/defendant No.1 has filed an application under Order VIII, Rule 9 of the Code of Civil Procedure, 1908 (for short 'C.P.C.'), was dismissed.

2. Heard learned counsel for the petitioner as well as the respondents. Perused the record.

3. Respondent Nos.1 to 4 herein filed the suit in O.S.No.52 of 2014 for declaration and mandatory injunction against the petitioner/defendant No.1 and respondent Nos.5 to 7/defendant Nos.2 to 4. While so, the petitioner filed a memo adopting the written statement filed by defendant No.3. When the subject

suit was coming up for framing of issues, the petitioner herein filed an application vide I.A.No.103 of 2018 seeking permission of the Court below to file additional written statement by eschewing the earlier adoption memo. Respondent Nos.1 to 4 have resisted the same by way of counter. After considering the material available on record, the Court below has dismissed the said application. Being aggrieved by the said Order, this Civil Revision Petition is preferred.

4. Learned counsel for the petitioner has submitted that the Court below committed an error in dismissing the application filed seeking permission for filing additional written statement, eschewing the adoption memo through which adopted the written statement filed by defendant No.3. Learned counsel for the petitioner has placed reliance on the Judgments in between **ALLOOR SUBRAHMANYAM v. SUTHRAM**

PRABHAKAR AND OTHERS¹ and VEERAMMAL AND OTHERS v. P.SELVI².

5. Per contra, learned counsel for respondent Nos.1 to 4 has supported the Order of the Court below and submits that the petitioner was given sufficient opportunity for filing additional written statement. When the suit was posted for framing issues, several adjournments were granted but the petitioner belated filed the subject application as such it was rightly dismissed by the Court below.

6. Heard the submissions made by learned counsel appearing for both the parties.

7. Order VIII Rule 9 of CPC deals with subsequent pleadings. It has imposed bar on the parties filing pleadings subsequent to the filing of the written statement other than by way of defence to set-off or counter-claim, except by the leave of the Court. This provision *per se* does not stipulate any limitations on

¹ 2012 (2) CCC 550

² MANU/TN/1551/2010

the power of the Court to allow the parties to file subsequent pleadings. However, the Courts have interpreted this provision by reading certain limitations into the same, obviously to ensure that the scope of the proceedings is not unduly enlarged and the suit proceedings are not dragged on in the guise of filing subsequent pleadings.

8. On perusal of the entire material available on record, the petitioner/defendant No.1 has adopted the written statement filed by defendant No.3 by filing an adoption memo on 11.12.2014. Therefore, the subject suit was posted for framing of issues. Subsequently, on 19.01.2017, at the request of the petitioner, the Court below gave an opportunity to him for filing additional written statement and adjourned the matter for six (6) times but in spite of several adjournments, the additional written statement was not filed. Later, he filed the subject application seeking permission to

file additional written statement by eschewing the earlier adoption memo.

9. It appears that the petitioner was negligent, thereby, he failed to file additional written statement even after sufficient opportunity was given. Order VIII, Rule 9 of C.P.C. is admissible with certain limitations and that the time for filing written statement can be enlarged the suit proceedings and the same cannot be dragged for a long period on in the guise of filing additional written statement even after filing the pleadings of both parties and when the suit is coming up for framing of issues. Learned counsel for respondent Nos.1 to 4 has vehemently argued that the suit is advanced and at this stage, it is not permissible under Civil provisions for filing additional written statement.

10. Keeping in view of the foregoing discussion, I am of the considered opinion that the Court below has rightly appreciated the fact that the petitioner was not

diligent as such he failed to file additional written statement, in spite of sufficient opportunity was given and filed the subject application belatedly. Therefore, this Civil Revision Petition is liable to be dismissed.

11. Accordingly, this Civil Revision Petition is dismissed.

Pending miscellaneous applications, if any, shall stand closed. However, there shall be no order as to costs.

SD/- T. JAYASREE
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Junior Civil Judge, Jadcherla.
2. One CC to SRI. HARISH KUMAR RASINENI Advocate [OPUC]
3. One CC to SRI. B RACHNA Advocate [OPUC]
4. Two CD Copies

ADK

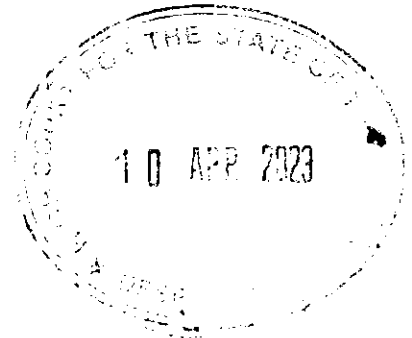
~~ADK~~

HIGH COURT

DATED:09/02/2023

ORDER

CRP.No.7722 of 2018



CIVIL REVISION PETITION IS DISMISSED

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BSK
25/3/23.