

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH**

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CIVIL REVISION PETITION No.4099 of 2014

Between:

Challa Nagaraju

....Petitioner

and

Avula Venkayamma and others.

....Respondents

JUDGMENT PRONOUNCED ON : 30.12.2015

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO :

1. Whether Reporters of Local newspapers : Yes
may be allowed to see the Judgments?
2. Whether the copies of judgment may be : No
Marked to Law Reporters/Journals?
3. Whether Their Ladyship/Lordship wish to : No
see the fair copy of the Judgment?

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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CIVIL REVISION PETITION No.4099 of 2014

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ORDER:

The petitioner herein is the fourth defendant in O.S.No.52 of 2005 on the file of the learned Additional Senior Civil Judge, Ongole. The said suit was filed by the first respondent herein seeking partition and separate possession of six shares out of 25 shares and for mesne profits. The said suit was decreed partly on 11.11.2010. Against the same, A.S.No.175 of 2012 was filed and the same is pending on the file of the learned I Additional District Judge, Ongole. In the said appeal, the plaintiff filed I.A.No.1427 of 2013 for amendment of item No.7 of the plaint schedule property and when the same was allowed on 26.09.2014,

the present Civil Revision Petition is filed.

The plaintiff filed the application stating that, though it was correctly mentioned as 2½ cents in respect of item No.7 of plaint schedule, but while converting the same into local measurements, it was mentioned as 10 gadhis instead of 15 gadhis. Similarly, in respect of the owner on the western boundary, it was mentioned as the owner on the eastern boundary. There was a consequential mistake occurred in respect of the boundaries mentioned in the eastern side and western side. The lower appellate Court by observing that the proposed amendment is not going to change the nature of the suit and cause of action, allowed the application.

The lower appellate Court should have posted the said application along with the main appeal to be disposed of at the time of deciding A.S.No.175 of 2012. When the lower appellate Court passed an order allowing the application, the present Civil Revision Petition is filed.

Though the cause of action is not changed and the proposed amendments are only change of boundaries and correct extent in the local measurements, the proper course of action should have been to post I.A.No.1427 of 2013 along with A.S.No.175 of 2012 to be disposed of along with the appeal.

In the circumstances, the order dated 26.09.2014 passed by the learned I Additional District Judge, Ongole, is modified and I.A.No.1427 of 2013 is posted along with the appeal in A.S.No.175 of 2012 to be disposed of along with the appeal.

The Civil Revision Petition is, accordingly, allowed to the extent indicated above. The miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

(A.RAMALINGESWARA RAO, J)

30.12.2015
vs