

THE HON'BLE MR JUSTICE R. KANTHA RAO

Civil Revision Petition No.3437 of 2015

ORDER:

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This civil revision petition is filed under Article 227 of the Constitution of India against the order and decree dated 21.07.2015 passed in I.A.No.659 of 2014 in O.S.No. 50 of 2009 on the file of the Junior Civil Judge's Court, Prathipadu.

Heard the learned counsel appearing for the revision petitioners/defendants and the learned counsel appearing for the respondent/plaintiff.

The respondent/plaintiff instituted the suit for simple injunction and the trial of the suit was commenced and the suit was posted for further evidence of the defendant. At that juncture, the respondent/plaintiff filed an application under Order VI Rule 17 of C.P.C. proposing an amendment to the plaint praying for the additional relief of declaration of title besides relief of injunction. The petition was opposed by the revision petitioners/defendants on the ground that it changes the nature of the suit and altogether introduces new cause of action. Further, they contended that it was filed at a belated stage after commencement of trial.

The learned trial Court having gone through the submissions made on either side observed that by seeking the additional relief of declaration of title, the nature of the suit will not change and therefore, the amendment can be allowed. Accordingly, the trial Court allowed the amendment petition. Aggrieved by the said order, the present revision petition is filed.

Learned counsel appearing for the petitioners submits that in view of the provisions of Order VI Rule 17 of C.P.C. no amendment can be brought by a party after commencement of the trial unless it is shown that he failed to seek the said amendment in spite of the due diligence and also that by claiming the relief the plaintiff has been trying to change the nature of the case.

On the other hand, the learned counsel appearing for the respondent/plaintiff would submit that the proposed amendment does not change the nature of the case and moreover, it became necessary in view of the contentions raised by the defendants in their written statement. He would further submit that there is another suit for simple injunction filed by the petitioners/defendants in respect of the same property.

It is true that in the instant case, the amendment application was filed

after commencement of the trial. There is no dispute about the fact that there are two suits for simple injunction filed by each party in respect of the same subject matter. In the written statement filed by the petitioners/defendants, they claimed title to the property. Therefore, in my view, to avoid multiplicity of litigation and for complete adjudication of the issues involved in the suit, the amendment became necessary and the trial Court did not commit any mistake in allowing the amendment calling for any interference by this Court in this revision.

The revision petition is therefore dismissed. There shall be no order as to costs.

Miscellaneous petitions, if any, filed in this revision shall stand closed.

Date:09.10.2015.
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R. KANTHA RAO,

HON’BLE MR JUSTICE R. KANTHA RAO

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