

HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

CIVIL REVISION PETITION No.1287 of 2015

Date:12.06.2015

Between :

Nimmayakala Suresh Babu,

S/o Lakshminarayan

..... Petitioner

And:

Kotturi Venkata Vara Prasad Rao,

S/o Venkata Ratnam and three others.

.....Respondents

Counsel for the petitioner: Sri T.Lakshminarayana

Counsel for the Respondents: None appeared

The Court made the following:

ORDER:

This Civil Revision Petition arises out of order, dated 02.03.2015, in I.A.No.176 of 2015 in O.S.No.518 of 2013 on the file of the Principal Junior Civil Judge, Guntur.

I have heard Sri T.Lakshminarayana, learned counsel for the petitioner and perused the record.

After completion of evidence of P.Ws.1 and 2 and before commencement of evidence on the respondent's side, respondent Nos.1 and 2 have filed the above-mentioned I.A. under Order-VI Rule-17 of the Code of Civil Procedure for permitting them to amend the written statement. The said application was resisted by the petitioner. However, by the order under revision, the lower Court has allowed the said application.

A perusal of the order of the lower Court would show that the ground on which respondent Nos.1 and 2 have sought amendment of the written statement was that after they have filed the written statement on 03.12.2013, (wrongly shown as 03.12.2014 in paragraph-4 of the order under revision), sale deed, dated 16.12.1986, executed in their favour was rectified through rectification deed, dated 25.04.2014, and that as the said fact is relevant for proper and effectual adjudication of the suit, they wanted incorporation of the said fact in the written statement by way of amendment. Finding this request reasonable, the lower Court has allowed the said application.

Learned counsel for the petitioner has emphasized on the fact that the application for amendment was filed after the commencement of the trial and that unless the Court is satisfied that in spite of due diligence, respondent Nos.1 and 2 could not raise the matter before the commencement of trial, it ought not to have allowed the said application.

No doubt, the order of the lower Court does not show that it has recorded its satisfaction that respondent Nos.1 and 2 have exercised their due diligence and despite the same, they could not seek amendment before the commencement of the trial. However, the fact remains that pleading of the fact of rectification of sale deed, dated 16.12.1986, appears to be relevant and material for proper and effectual adjudication of the suit. Therefore, I am not inclined to interfere with the discretion exercised by the lower Court in permitting respondent Nos.1 and 2 to amend the written statement.

For the above-mentioned reasons, the Civil Revision Petition is dismissed.

As a sequel to dismissal of the Civil Revision Petition, CRPMP.No.1749 of 2015 is dismissed as infructuous.

JUSTICE C.V.NAGARJUNA REDDY

12th June, 2015

DR