

THE HON'BLE SRI JUSTICE VILAS V. AFZULPURKAR

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C.R.P. NO. 4529 of 2014

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Date of Judgment: 19.3.2015

Between:

Yandrapati Vijayaraju and another

...Petitioners

And

Yandrapati Mary Grace and others

..Respondents

THE HON'BLE SRI JUSTICE VILAS V. AFZULPURKAR

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C.R.P. NO. 4529 of 2014

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ORDER:

Heard learned counsel for the petitioners.

Defendants 1 and 2 in O.S.No. 15 of 2008 on the file of Senior Civil Judge, Chirala question the order dated 22.8.2014 passed by the trial Court allowing I.A.No. 1118 of 2014 for amendment of names of defendants 2 and 3 in the cause title.

The first respondent/plaintiff filed a suit for specific performance against the first defendant, his wife and two children who are arrayed as defendants 2 to 4 respectively. It is evident from the record that summons were served on the first defendant on his behalf and also on behalf of other defendants. First defendant filed his written statement, but

did not dispute the names of other defendants shown in the cause title. However, in his chief-examination, the first defendant appears to have made a statement that the name of his daughter was wrongly shown in the cause title. Hence the plaintiff filed an application seeking amendment of the names of defendants 2 and 3. The first defendant did not oppose the said application in so far as it relates to amendment of name of defendant No.2, but contested the said application to the extent of amendment of name of defendant No.3. The trial Court, however, allowed the amendment under the impugned order.

Learned counsel for the petitioners/defendants 1 and 2 states that the defendants 3 and 4 were set exparte and the impugned order allowing the amendment of name of defendant No.3 in the cause title could not be permitted. He also states that the defendant No.3 was originally mentioned as a male person, whereas by amendment a female person is sought to be amended which is also not permissible.

I have considered the submissions of the learned counsel for the petitioners/defendants 1 and 2. Admittedly the suit is filed against the defendant No.1, his wife and two children who are defendants 2 to 4. So far as amendment of name of defendant No.2 is concerned, it was not opposed and was accordingly ordered. To the extent of amendment of name of defendant No.3 is concerned, the plaintiff states that instead of mentioning the name of daughter of defendants 1 and 2 as 'Yandrapati Sailaja' in the cause title, by typographical mistake, it was mentioned as son of defendants 1 and 2 as 'Yandrapati Sayiteja' and therefore,

the said mistake is sought to be corrected by the proposed amendment. The trial Court has rightly found that the first defendant accepted summons for himself and also for other defendants, but did not refuse to take the summons of third defendant on the ground that the name of his daughter was not correctly reflected in the summons and even he did not dispute the same in his written statement. Hence at this stage the objection raised by the petitioners for allowing the amendment application is not sustainable and does not hold merit. I see no reasons to interfere with the impugned order.

The revision petition is accordingly dismissed along with miscellaneous applications, if any. No order as to costs.

VILAS V. AFZULPURKAR, J

Dt. 19.3.2015
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