

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

* * * *

CIVIL REVISION PETITION No.3720 of 2015

Between:

Kommanaboyina Srinivasa Rao.

....Petitioner

and

Santhanapuri Radhika.

....Respondent

JUDGMENT PRONOUNCED ON : 04.12.2015

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

-

CIVIL REVISION PETITION No.3720 of 2015

ORDER:

The defendant in O.S.No.478 of 2011 on the file of the learned II Additional Junior Civil Judge, Kakinada, is the petitioner herein. The respondent herein filed the said suit for ejectment of the petitioner herein from the suit schedule property of a shop bearing Door No.9-258 in Survey No.74/3, Main Road, Ramanayyapeta Village, Kakinada Rural Mandal in East Godavari District. The evidence was completed in the said suit and after completion of the evidence, an application in I.A.No.730 of 2015 was filed by the respondent herein stating as follows:

“I am the petitioner plaintiff. I submit that originally notice schedule was typed in the plaint. When the plaint was returned the A-3 Agreement of Sale Schedule mentioned in the plaint schedule. I humbly submit that it is a mistake when the plaint was returned instead of noting the schedule mentioned in the notice A-3 schedule was mentioned. Thus the schedule has to be amended with correct boundaries.”

The petitioner herein filed a counter affidavit stating that the respondent herein was aware of the correct schedule at the time of filing the suit, and though the suit was filed with correct schedule, it was changed after resubmission of the plaint. The application was filed at the stage of reply arguments for the plaintiff. The trial Court allowed the said application with the following observations:

“6. I have perused the petition, affidavit and counter. The petition is filed when the matter is posted for reply arguments after conclusion of trial. The trial was conducted and at the time of advancing the arguments the mistake was detected. There is no big difference in changing and amending the schedule. The suit relates to eviction of the tenant filed by the land lord relating to the schedule now sought for amendment. The defendant is contesting the case. If the amendment is allowed the rights of the defendants are not going to be prejudiced. The Hon'ble Supreme Court in the above judgment 2015 (2) L.S.29 (S.C) held in para 20 *“It is well settled that rules of procedure are intended to be a handmaid to the administration of justice. A party*

cannot be refused just relief merely because of some mistake, negligence, inadvertence or even infraction of rules of procedure. The court always gives relief to amend the pleading of the party, unless it is satisfied that the party applying was acting malafide or that by his blunder he had caused injury to his opponent which cannot be compensated for by an order or cost."

In the above judgment the Hon'ble Supreme Court clearly held that the amendment should be liberally allowed to ensure proper justice. I rely on the above judgment and the same is applicable to the present case facts.

7. In the present case it is mentioned that by mistake the schedule was wrongly noted and now the plaintiff is seeking permission to correct the schedule. By correcting the schedule the other side is not going to suffer any loss or injustice. In fact the plaintiff wants to file the correct schedule which is under dispute between the land lord and tenant. Considering in any angle the nature of the suit will not be altered by the proposed amendment."

Learned Counsel for the petitioner submits that, even if the application was filed at the stage of reply arguments also, no proper grounds were shown for the amended schedule and in fact, the amended schedule was also not filed along with the application. Learned Counsel for the respondent, on the other hand, submits that the plaintiff is in occupation of one mulgi and she purchased adjacent mulgi and the petitioner herein is, admittedly, a tenant of the said mulgi and she wanted eviction of the petitioner from the adjacent mulgi. Instead, she filed the suit showing the mulgi, which is in her occupation, by mistake. He further submits that, consequent to the allowing of the application, the suit schedule was amended and now the suit is reserved for judgment.

Though a perusal of the application filed by the respondent herein does not disclose proper grounds and no proposed schedule was filed along with the application, but in view of the subsequent facts and in the interest of justice, the order of the trial Court cannot be found fault. The parties are with an understanding and the evidence was led on the basis of the said understanding.

I do not want to interfere with the impugned order passed by the trial Court on

18.08.2015 and, accordingly, the Civil Revision Petition is dismissed. The miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

(A.RAMALINGESWARA RAO, J)

04.12.2015

vs

-