

**THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA  
RAO**

**CIVIL REVISION PETITION No.372 of 2015**

**ORDER:**

This Civil Revision Petition is filed challenging the order

dt.08-12-2014 in I.A.No.151 of 2014 in I.A.No.62 of 2014 in O.S.No.21 of 2014 of the Principal Senior Civil Judge, Rajampet.

2. The petitioner herein is defendant in the above suit. The suit was filed by respondent for relief of perpetual injunction restraining the petitioner from interfering with his alleged possession and enjoyment of the plaint schedule property.

3. Written statement was filed on behalf of petitioner denying possession of respondent/plaintiff, but one sentence was mentioned in the written statement "and at present the plaintiff has been enjoying the same by raising Gingely crop"

4. The respondent also filed I.A.No.62 of 2014 seeking a temporary injunction against petitioner pending suit. Counter affidavit was filed by petitioner in the said I.A. also taking same pleas as in written statement filed by him.

5. Thereafter I.A.No.151 of 2014 was filed

contending that the word “plaintiff” in the above sentence (referred to in para-3 supra) is a mistake and it ought to have been typed as “defendant” in the written statement and as “respondent” in the counter-affidavit, that the said mistake occurred inadvertently, and petitioner should be allowed to rectify it by amending both written statement in the suit as well as counter affidavit in I.A. by substituting the words “defendant” for “plaintiff” in the written statement and “respondent” for “petitioner” in the above sentence in the counter-affidavit in I.A.No.62 of 2014.

6. Counter-affidavit is filed to this application by respondent contending that there is no mistake and that the petition is filed only to drag on the matter.

7. By order dt.08-12-2014, the Court below dismissed I.A.No.151 of 2014. It held that there is an admission by petitioner in the written statement filed by him and in the counter filed by him in I.A. that plaintiff is in possession of the plaint schedule property by way of raising gingely crop and that if proposed amendment is allowed, it would cause prejudice to respondent.

8. Challenging the same, this Civil Revision Petition is filed.

9. It is the contention of learned counsel for petitioner that there is an inadvertent mistake committed by petitioner or her advocate in drafting of written

statement in the suit and counter in the I.A; that in other places in the written statement or counter, the possession of petitioner/defendant is asserted; and looked at from that angle, the only conclusion which can be drawn was that it was a bonafide mistake and it should be allowed to be rectified.

10. It is no doubt true that under Order VI Rule 17 CPC, parties to a suit can amend the pleadings and that Court should allow such amendments if they are considered necessary for the purpose of determining the real questions in controversy between the parties. However, there is one limitation placed on the power of the Court in this regard i.e. once a written statement contains an admission in favour of the plaintiff, by amendment such admission of the defendants cannot be allowed to be withdrawn if such withdrawal would amount to totally displacing the case of the plaintiff and would cause him irretrievable prejudice. This principle has been laid down by the Supreme Court in **Modi Spinning and Weaving Mill Co. Ltd. Vs. Lodha Ram and Co**<sup>[1]</sup> and the same has been reiterated in **Heeralal Vs. Kalyan Mal and others**<sup>[2]</sup>.

11. It may be true that at all other places in the written statement and counter filed in I.A.No.62 of 2014, the petitioner had no doubt asserted that he is in

possession of the plaint schedule property, but the fact remains that in both these pleadings he has said “and at present the plaintiff has been enjoying the same by raising gingely crop”. This is an admission in favour of other side and substitution of the word “plaintiff” by the word “defendant” would clearly displace the admission which is in favour of respondent. In view of the above decisions, such a course of action cannot be permitted by the Court.

12. Therefore, I do not find any error in the order of the Court below warranting interference by this Court in exercise of its Revisional jurisdiction under Article 227 of the Constitution of India.

13. Therefore, the Civil Revision Petition fails and is accordingly dismissed. No costs.

14. As a sequel, all miscellaneous petitions, if any pending, shall stand closed.

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**JUSTICE M.S.RAMACHANDRA RAO**

Date: 13-03-2015

Vsv/\*

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[\[1\]](#) AIR 1977 SC 680

[\[2\]](#) AIR 1998 SC 618