

HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

C.R.P.No.4948 of 2014

Date : 6-2-2015

Between :

J. Venkateswar Rao

.. Petitioner

And

Smt. Vijaya Lakshmi
Respondent

..

Counsel for petitioner : Mr. V.V. Anil Kumar

Counsel for respondent : --

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The Court made the following:

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ORDER:

This Civil Revision Petition arises out of order dated 25-11-2014 in I.A.No.911 of 2013 in O.S.No.659 of 2008 on the file of the learned Additional Junior Civil Judge, Kukatpally at Miyapur.

The respondent initially filed O.S.No.1145 of 2004 in the Court of the learned Principal Junior Civil Judge, West & South, Ranga Reddy District at L.B. Nagar, for permanent injunction restraining the petitioner from interfering with her possession of the residential plot No.116, admeasuring 300 sq. yards = 250.80 sq. mtrs. situated at Madhapur village, Serilingampally Mandal and Municipality, Ranga Reddy District. On the constitution of the Court of the Junior Civil Judge, Kukatpally at Miyapur, the suit was transferred to the Court of the learned Additional Junior Civil Judge, Kukatpally at Miyapur and renumbered as O.S.No.659 of 2008. The respondent has filed I.A.No.911 of 2013 under Order VI Rule 17 CPC for amendment of plaint. By order dated 25-11-2014, the lower Court has allowed the said application. Feeling aggrieved by the said order, the defendant has filed this Revision Petition.

Mr. V.V. Anil Kumar, learned Counsel for the petitioner, has strenuously submitted that the respondent has been harassing the petitioner for more than a decade and that without raising proper pleadings as to when she was dispossessed, the respondent has filed an application for amendment of the plaint for claiming the relief of declaration of

title and recovery of possession. He has further submitted that the proposed relief is barred by limitation and that therefore the lower Court ought not to have allowed the same.

I have carefully considered the submissions of the learned Counsel for the petitioner and perused the record.

From the observations made by the lower Court, it appears that issues have not yet been settled in the suit. Though the averments relating to dispossession made by the respondent in her affidavit filed in support of I.A.No.911 of 2013 are somewhat vague, that by itself cannot constitute a ground for rejecting her application for amendment of plaint. The suit was filed on the premise that the respondent was in possession of the property and the petitioner has been interfering with the same. In the present application, the respondent has pleaded that the petitioner has forcibly removed the shed situated over the suit schedule property, obtained electrical connection and sanction of building plan and is seeking to raise construction. Thus, the respondent has admitted that she is out of possession of the property. The law does not preclude the plaintiff from amending the plaint in a suit filed for permanent injunction for claiming the relief of declaration of title and recovery of possession way of such amendment. If the suit is barred by limitation, the petitioner is entitled to raise the said ground and seek dismissal of the same. If such a ground is raised, the lower Court shall frame an issue in that regard and

decide the same along with the other issues. Indeed, by allowing the amendment, multiplicity of proceedings can be avoided whereby the petitioner stands to the advantage of not fighting another round of litigation.

For the above mentioned reasons, I do not find any merit in this Civil Revision Petition and the same is accordingly dismissed.

As a sequel, CRPMP Nos.6734 and 6735 of 2014 filed for interim reliefs, are disposed of as infructuous.

Justice C.V. Nagarjuna Reddy

Date : 6-2-2015

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