

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

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CIVIL REVISION PETITION No.2208 OF 2014

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Between:

Smt T.Munemma & another
.. Petitioner

And

Buduru Durgamma and others
.. Respondents

DATE OF JUDGMENT PRONOUNCED: 25-08-2015

SUBMITTED FOR APPROVAL:

HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

1. Whether Reporters of Local newspapers
Yes/No
may be allowed to see the Judgment?
2. Whether the copies of judgment may be
Yes/No
marked to Law Reporters/Journals
3. Whether Their Lordship wish to
see the fair copy of the Judgment?
Yes/No

HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

CIVIL REVISION PETITION No. 2208 of 2014

ORDER:

This Revision petition is filed challenging the order dated 06.06.2014 in I.A.No.887 of 2013 in O.S.No.464 of 2004 of the Principal Junior Civil Judge, Tirupathi.

2. The petitioner herein is the second plaintiff in the suit. The said suit was filed by his mother, who was the first plaintiff, for declaration of title to the property and for perpetual injunction. Later she died and the petitioner was impleaded as a party in the suit. Trial concluded and the matter was posted for arguments.

3. At that stage, the petitioner filed I.A.No.887 of 2013 seeking amendment of the plaint to correct survey number of the land mentioned in the plaint schedule as Sy.No.271/3A in the place of Sy.No.271/3B which was wrongfully typed therein.

4. In the affidavit filed in support of the petition, it is stated that it was a mistake which occurred by oversight, that the substitution of survey number would not change the character and nature of the suit, and it would not prejudice the respondents.

5. This application was opposed by respondent No.12, who contended that the suit itself is vexatious and, when the matter is posted for arguments, this application

has been filed only to procrastinate the matter. It was also alleged that, if survey number is changed, it would change the identity of the property described in the schedule and, if this is allowed after nine years of litigation, the nature of the suit also would change. It was contended that the entire evidence led by the petitioner pertain to the identity of the property given in the plaint and, at the stage of arguments, the petitioner cannot be permitted to change the nature of the suit by way of the present amendment.

6. By order dated 06.06.2014, the Court below dismissed the said application. It held that once trial has started, no amendment can be permitted and since the trial had already been completed, and the matter is posted for arguments, in the absence of due diligence shown by the petitioner, the application cannot be allowed. It held that the suit is filed after sub-division has taken place; the petitioner had clear knowledge of sub-division, and he has mentioned it as Sy.No.271/3B; the petitioner ought to have woken up at the earliest point of time and got the error corrected at the initial stage. It held that, if the petitioner is permitted to alter the survey number and substitute Sy.No.271/3A at the stage of arguments, it would change the entire location of the property and jeopardize the case set up by the respondents on the basis of the schedule mentioned in the plaint. It also held that prejudice would be caused to the respondents.

7. Questioning the same, this revision petition is

filed.

8. Learned counsel for the petitioner contended that a mistake in mentioning incorrect survey number in plaint schedule occurred only on account of oversight and the petitioner ought to have been permitted by the Court below to correct the plaint schedule by substituting the correct survey number. He further contended that no prejudice would be caused to the respondents if correction is allowed.

9. As per proviso to Order VI Rule 17 CPC, application for amendment of pleadings cannot be allowed after the trial has commenced unless the Court comes to the conclusion that, in spite of due diligence, the party could not have raised the matter before commencement of trial. Except stating that there was a mistake which occurred on account of oversight, no reason was assigned by the petitioner as to why steps, seeking correction of the error of survey number, were not initiated for a period of ten years i.e. from 2004, from which time, the suit has been pending. Written statement has been filed by the respondent on the basis of the schedule in the plaint, and the entire trial has proceeded on the basis that the land in dispute is Sy.No.271/3B. Therefore, serious prejudice would be caused to the other side if the application is allowed. The petitioner has been negligent in taking steps to seek amendment of the plaint before the trial has commenced. Therefore, I do not find any merit in

the Revision.

10. The Civil Revision Petition is, accordingly, dismissed. Miscellaneous petitions pending, if any, shall also stand dismissed. No order as to costs.

M.S.RAMACHANDRA RAO,J

Date:25.08.2015

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