

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

Civil Revision Petition No.485 of 2015

Date: 11-12-2015

Between:

Penumarti Adiya and 3 others

.... Petitioners

AND

Chundru Panasa Ramana and 7 others

.... Respondents

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

Civil Revision Petition No.485 of 2015

ORDER:

The 1st respondent herein is the plaintiff in O.S.No.800 of 2004 on the file of I Additional Junior Civil Judge, Tanuku. The said suit was filed against the 2nd defendant seeking possession of EFGH site of the plaint plan by removing the constructions made by the 2nd defendant and for a consequential permanent injunction against the defendants from interfering with the possession and enjoyment of ABCD site of the plaintiff. PW.1 was examined in the suit after filing the original written statement by the defendants and framing of issues. At that stage, I.A.No.536 of 2014 was filed by the plaintiff seeking amendment of the plaint by seeking the relief of mandatory injunction for removal of encroachments made by the defendants 3 to 6. Even though the original suit was filed against the 2nd the defendant, the petitioner stated in the affidavit that the said amendment has become necessitated after filing of the report of the Advocate Commissioner to measure his property and to

decide the encroachments made by the defendants. The original suit was filed by the plaintiff, as the 2nd defendant alone encroached the plaintiff's land at that point of time. Since the report of the Advocate Commissioner revealed that defendants 3 to 6 also encroached the land of the plaintiff, the plaintiff sought amendment of the plaint. The 2nd respondent alone filed the counter stating that any amendment of pleadings cannot be permitted for different cause of action and also after the matter is posted for trial. The trial Court by order dated

31-10-2014 allowed the said application by stating that the main endeavour of the court is to do justice to the parties to the suit by determining the real questions in controversy and since the fact of encroachment by other defendants has come to the knowledge of the plaintiff only after submission of the report of the Advocate Commissioner, the amendment is necessitated. The Court also opined that the amendment is to avoid multiplicity of proceedings.

Now, the learned counsel on both sides submitted that after passing the order dated 31-10-2014 by the trial Court, the defendants also filed additional written statement and as additional issue was also framed.

In the circumstances, I feel that the order passed by the trial Court is proper and it is intended to avoid multiplicity of proceedings. The defendants are no way prejudiced by virtue of the amendment.

The Civil Revision Petition is accordingly dismissed. No costs. As a sequel thereto, miscellaneous petitions, if any, pending shall stand closed.

A. RAMALINGESWARA RAO, J

Date: 11-12-2015

Ksn