

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

CIVIL REVISION PETITION No.306 of 2015

ORDER:

This Revision is filed challenging the order dt.28-10-2014 in I.A.No.219 of 2014 in O.S.No.159 of 2013 of the I Additional Junior Civil Judge at Eluru.

2. The petitioner herein is defendant in the above suit. The respondents/plaintiffs filed the said suit against petitioner for a perpetual injunction restraining the petitioner from interfering with their possession and enjoyment of the suit schedule property.
3. Subsequently the respondents wanted to amend the plaint by inserting para-16A and para-18 and seeking additional relief of mandatory injunction directing the petitioner to come and cooperate with respondents for measurement of the respective properties and to fix and demarcate the boundary marks between the respective properties. So they filed I.A.No.219 of 2014.
4. It is not disputed that an application for appointment of Advocate-Commissioner filed earlier by petitioner had been dismissed. Therefore they sought to add the relief of mandatory injunction.
5. The Court below felt that the dispute between the parties relates to the boundaries of the respective properties and no prejudice would be caused to the petitioner if amendment is allowed and the boundaries are fixed since the dispute will then probably be solved permanently.

6. Challenging the same, this Revision is filed.
7. Heard Sri K.Satyanarayana Murthy, learned counsel for petitioner and Sri K.Sitaram, learned counsel for respondents.
8. The contention of the learned counsel for petitioner that the proposed amendment would change the nature of suit, cannot be accepted since the respondents have only attempted to add two additional paragraphs and sought to add an additional relief. The original relief sought in the plaint has not been given up and in fact the additional relief now sought is in aid of the main relief.
9. No doubt in the proposed amendment, there is a mention about a Will allegedly executed by one Vuppu Rama Rao also, which was not mentioned originally.
10. Although the execution of the said Will is disputed by petitioner, it is matter to be decided at the time of trial whether the said Will is in fact executed by late Vuppu Rama Rao or not.
11. So there is no illegality or infirmity in the impugned order.
12. Accordingly the Civil Revision Petition is dismissed. No costs.
13. As a sequel, miscellaneous petitions pending if any, shall stand disposed of.

JUSTICE M.S. RAMACHANDRA RAO

Date: 01-10-2015

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