

HON'BLE SRI JUSTICE S. RAVI KUMAR

CIVIL REVISION PETITION No.4224 of 2014

ORDER:

This revision is preferred against order dated 30.06.2014 in I.A.No.763 of 2012 in O.S.No.696 of 2006 on the file of the Principal Junior Civil Judge, Srikakulam, whereunder petition filed under Order VI Rule 17 read with Section 151 C.P.C. to amend the written statement is dismissed. Aggrieved by the dismissal of the said petition, present revision is preferred.

2. Brief facts leading to this revision are as follows:

Petitioners herein are defendants in the above referred O.S.No.696 of 2006 and they filed amendment petition on the ground that their previous Advocate did not plead important points and that made the petitioners to seek amendment of written statement by deleting paras 5 and 6 and incorporating 6 to 9 paras in place of earlier paras 5 and 6. This petition is opposed by plaintiff on the ground that after closure of plaintiff's evidence, the amendment petition is filed only to cover up the latches, as such, the petition is not maintainable. The trial Court after considering the contentions and rival contentions of both parties, dismissed the petition holding that petitioners cannot be permitted to amend the written statement after cross-examination of all the witnesses of plaintiff and aggrieved by the said order, defendants preferred the present revision.

3. Heard arguments.

4. Advocate for revision petitioners submitted that the previous counsel of petitioners has given up Vakalat without informing petitioners and only after engaging the present Advocate, petitioners could notice that incorrect survey numbers and incorrect extents and incorrect boundaries are pleaded and as the previous counsel has got own lands adjacent to the suit land, the pleadings were intentionally made with incorrect facts and petitioners being cultivators, they have no legal knowledge, therefore, permission may be given to amend their written statement.

5. Other side Advocate submitted that as per the amended provisions of Order VI Rule 17 of C.P.C., no amendment can be permitted after commencement of trial and the Court below rightly dismissed the petition.

6. Now the point that would arise for my consideration in this revision is:

Whether the order in I.A.No.763 of 2012 in O.S.No.696 of 2006, dated 30.06.2014, of the Principal Junior Civil Judge, Srikakulam, is legal, proper and correct?

POINT :

7. Admittedly, petitioners are defendants and the present petition is filed after completion of plaintiff's evidence and when the suit is at the stage of defendants' evidence. Order VI Rule 17 of C.P.C. allows amendment of pleadings by either party for the purpose of hearing real questions in controversy and according to proviso, such

petition for amendment shall not be allowed after the trial has commenced unless the Court comes to the conclusion in spite of due diligence the party could not file such petition before commencement of trial. As seen from the material, it appears that petitioners have full knowledge of the proceedings and they intentionally did not take steps earlier before commencement of trial. Now blame is thrown on their previous advocate on the ground that he has not informed them and the wrong boundaries and wrong facts were incorporated in the written statement. If really that is the correct factual aspect, the remedy of petitioners is to take appropriate action against their counsel, who mislead them. Admittedly, no such action is taken. As rightly pointed by advocate for respondent, as per the amended provision, no amendment can be permitted after commencement of trial. In this case, plaintiff's side evidence is already closed and all the four witnesses examined on behalf of plaintiffs were cross-examined by petitioners herein and now the suit is at the stage of defendants' evidence and according to the submission of advocate for revision petitioners, defendants' side evidence is also over, therefore, it is clear that the trial is already concluded. So, at this stage, allowing the party to amend the pleadings without any justifiable cause is not warranted and the trial Court rightly dismissed the petition and I do not find any illegality or wrong appreciation of law by the trial Judge.

8. For these reasons, revision is dismissed as devoid of merits. No costs.

9. Miscellaneous Petitions, if any, shall stand dismissed.

S. RAVI KUMAR, J

13th February 2015.

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