

THE HON'BLE SRI JUSTICE K.C. BHANU

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CIVIL REVISION PETITION No.3868 OF 2014

ORDER:

This Civil Revision Petition, under Article 227 of the Constitution of India, is directed against the Order and decree, dated 26.09.2012, in Interlocutory Application No.890 of 2012 in Original Suit No.3 of 2008 passed by the VI Additional District Judge (Fast Track Court), Guntur, whereunder and whereby, the application filed under Order VI Rule 17 of the Code of Civil Procedure, 1908 (for short, 'CPC') to amend the plaint, was dismissed holding that the petitioner must have knowledge about the existence of the alleged gift deed prior to filing of the suit and there are no reasons to allow the petition at that stage.

2. Learned counsel for the petitioner contended that on 07.11.2011 the petitioner came to know about the details of the gift deed, dated 08.02.2007, and therefore, she prays to allow the revision.

3. In view of the amendment to Order VI Rule 17 CPC, amendment of the pleadings is not routine or automatic after the trial of the case has commenced. Proviso to Order VI Rule 17 CPC reads as follows:

“Provided that no application for amendment shall 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 the commencement of trial.”

A perusal of the above provision shows that in spite of taking due diligence, if a party could not file an amendment petition, he can apply for amendment of the pleadings even after trial of the suit has commenced.

4. On facts, it is clear that the petitioner came to know about the existence of

the gift deed, dated 08.02.2007, on 17.11.2011 on which date gift deed was marked and still he has not evinced any interest to amend the pleadings. After lapse of five months, the present application was filed. Therefore, the case of the petitioner does not fall under the purview of proviso to Rule 17 of Order VI CPC. Therefore, considering this aspect of the case, the trial Court rightly dismissed the application and that order needs no interference by this Court. The petition is devoid of merit and the same is liable to be dismissed.

5. Accordingly, the Civil Revision Petition is dismissed. There shall be no order as to costs. Miscellaneous Petitions, if any, pending in this revision shall stand closed.

JUSTICE K.C. BHANU

Date:17.04.2015

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