

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CIVIL REVISION PETITION No. 325 of 2015

ORDER:

-

The present Civil Revision Petition is filed under Article 227 of the Constitution of India, aggrieved by the order dated 15.12.2014 passed in I.A.No.210 of 2014 in O.S.No.48 of 2013 on the file of the Senior Civil Judge, Nandikotkur, wherein an application filed by the respondent under Order 6 Rule 17 of C.P.C. for amendment of plaint was allowed.

The facts in issue are as under:

The respondent herein filed O.S.No.48 of 2013 for recovery of an amount of Rs.1,42,150/- with future interest on Rs.1,00,000/-, basing on a promissory note. After cross examination of DW.1 the respondent herein i.e. plaintiff filed an application under Order VI Rule 17 of C.P.C. for amendment of initial in the surname and also the religion of the defendant.

It is stated in the petition that in promissory note executed by the defendant, his name was mentioned as C.I.Kishore instead of G.I.Kishore. Believing the same, the plaintiff issued legal notice to the defendant in the name of C.I.Kishore and suit also came to be filed against the defendant by mentioning his name as C.I.Kishore. But, while examining the defendant as DW.1 in the suit, he clearly stated that he has no objection if the suit is decreed against C.I.Kishore as his name is G.I.Kishore and not C.I.Kishore. Hence, a petition came to be filed for amendment of the name and religion.

A counter came to be filed opposing the same on the ground that question of amending the plaint after completion of the trial is not permissible and the plea of the defendant was not taken into consideration while ordering the amendment.

After analyzing the material on record, the trial Court allowed the

petition. Challenging the same the present revision is filed.

Reiterating the averments made in the lower court, the learned counsel for the petitioner mainly submits that the learned Senior Civil Judge, Nandikotkur, erred in allowing the petition.

A perusal of the material on record discloses that though the legal notice was sent to C.I.Kishore, the petitioner, who is claiming himself to be G.I.Kishore, acknowledged the said notice. Thereafter, when the summons were issued in the name of C.I.Kishore, the petitioner received the same, appeared before the Court by engaging a counsel, filed the written statement, participated in the trial and also cross examined the witnesses. The petitioner also entered into the witness box and got examined himself as DW.1. If really the petitioner was not the person, who has executed the pronote, no explanation is forthcoming as to why he acknowledged the notice, received summons, engaged the counsel and participated in the trial. The plaintiff came to know about the correct name of the respondent as G.I.Kishore only after his cross examination. As seen from the record, the cross examination of DW.1 took place on 08.09.2014 and immediately on the same day the plaintiff filed an application for amendment of the plaint. From the circumstances stated above, it is clear that the request made by the plaintiff for amendment of plaint is genuine and not attributable with any malafides. Further, insertion of word "C" instead of "G" in the name of the defendant and mentioning his religion as "Christian" instead of "Hindu" does not in any way cause any prejudice to the defendant and the same does not in any way change the nature of the suit. Hence, I find no reasons to interfere with the order passed by the trial Court.

Accordingly, the Civil Revision Petition is dismissed. There shall be no order as to costs.

As a sequel thereto, Miscellaneous Petitions pending if any in this Civil Revision Petition, shall stand closed.

C. PRAVEEN KUMAR, J

-

23.04.2015

gkv