

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA & THE STATE OF ANDHRA PRADESH

WEDNESDAY, THE FIFTEENTH DAY OF APRIL

TWO THOUSAND AND FIFTEEN

PRESENT

THE HON'BLE SRI JUSTICE VILAS V. AFZULPURKAR

CIVIL REVISION PETITION No.3458 of 2012

BETWEEN

Sadhineni Srinivasa.

... PETITIONER

AND

Musuluri Anjaiah and others..

...RESPONDENTS

Counsel for the Petitioner: MR. NIMMAGADDA SATYANARAYANA

Counsel for the Respondents: MR. M.S.N. PRASAD

The Court made the following:

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ORDER:

Defendant No.1 in O.S.No.127 of 2001 before the Additional Junior Civil Judge, Addanki, is the petitioner herein. By the present revision, petitioner questions the order dated 20.04.2012 passed by the Court below allowing the application, being I.A.No.75 of 2011, filed by the plaintiff/ respondent herein seeking amendment of plaint.

2. It is evident from the record that the respondent filed the aforesaid suit for declaration of title and injunction in the year 2001. While the said suit was pending, the respondent filed the present application seeking amendment of prayer to convert the suit into one for declaration of title and possession. Though the said application was opposed by the petitioner herein, the Court below under the impugned order allowed the said amendment by specifically stating that the issue as to limitation and all other aspects can be gone into and decided in the suit itself and liberty was also given to the petitioner herein to file written statement and also to cross-examine P.W.1 to the extent of amended relief. Accordingly, the application of the respondent was allowed on payment of costs of Rs.1,000/-. The impugned order, therefore, is the subject matter of this revision.

3. Though the learned counsel for the petitioner contended that the respondent ought not to have taken the plea of dispossession and sought amended relief, as according to the learned counsel for the petitioner, the respondent has been in possession since 2008 and even in the chief affidavit given by the respondent, in the present suit, on 07.05.2009, he never mentioned about dispossession, I do not see any merit in the aforesaid contention inasmuch as the relief of possession can be sought within the limitation provided under Articles 64 and 65 of the Limitation Act and since the suit is pending, if the respondent is dispossessed during the pendency of the suit, he can always be permitted to seek relief of possession instead of injunction as originally prayed for. Since the petitioner herein is given liberty by the Court below to file additional written statement and also cross-examine P.W.1 to the extent of amended relief, no prejudice would be caused to the petitioner.

The civil revision petition is, therefore, devoid of merits and is accordingly dismissed. As a sequel, the miscellaneous applications, if any, shall stand closed. There shall be no order as to costs.

VILAS V. AFZULPURKAR, J

April 15, 2015

DSK