

HON'BLE SRI JUSTICE R.SUBHASH REDDY

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CIVIL REVISION PETITION No.3949 of 2015

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ORDER :

This Civil Revision Petition, under Article 227 of the Constitution of India, is filed by the petitioner/defendant No.1, aggrieved by the order and decree dated 27.07.2015 in I.A.No.624 of 2015 in O.S.No.89 of 2007 passed by the IX Additional Chief Judge, City Civil Court, Hyderabad, dismissing the application filed by her under Order 6 Rule 17 r/w. Section 151 of C.P.C., seeking to permit her to amend the written statement by substituting para-6.

2. The suit is filed by the 1st respondent/plaintiff, who is the husband of the petitioner/defendant No.1, seeking declaration that he is the owner of the suit schedule property i.e., house bearing Municipal No.1-7-630/22, No.1-7-630/22/A & No.1-7-630/22/B, consisting of Ground, First and Second Floors, admeasuring 117 square yards, situated at Zamistanpur, adjacent to Gemini Colony, Hyderabad, having purchased the same benami in the name of defendant No.1, and consequently to cancel the Gift Settlement Deed dated 31.10.2006, registered on 02.11.2006 vide document No.4132, at SRO, Chikkadpally, Hyderabad, and also to grant perpetual injunction restraining defendant No.2 from selling/alienating or creating third party interest over the suit schedule property. The suit is of the year 2007, wherein after the petitioner/defendant No.1 filed written statement, issues were settled on 11.02.2008 and evidence on defendants' side also started. When the suit is coming up for cross-examination of D.W.2, the petitioner/defendant No.1 has filed the present application being I.A.No.624 of 2015 under Order 6 Rule 17 r/w. Section 151 of C.P.C., seeking permission to amend the written statement by substituting para-6. The said application was

dismissed by the Court below through the impugned order dated 27.07.2015. Hence, the present civil revision petition.

3 . Heard learned counsel for the petitioner/defendant No.1 and perused the material on record.

4 . It is to be noticed that with regard to cancellation of Gift Deed, already relief is claimed in the suit. As such, no amendment can be permitted, at this stage.

5 . Learned counsel for the petitioner/defendant No.1 has placed reliance on a judgment of the Apex Court in RAJESH KUMAR AGGARWAL AND OTHERS vs. K.K. MODI AND OTHERS in support of his contention that even at this stage, amendment can be permitted.

6 . A perusal of the said judgment, it is clear that by the time of seeking amendment in the said case, trial was not commenced. But, in the case on hand, after trial was commenced, plaintiff's evidence was already over and when the suit is coming up for cross-examination of D.W.2, the present application is filed seeking amendment of written statement. If the said application is allowed permitting the petitioner/defendant No.1 to amend the written statement, at this stage, it would cause prejudice to the other side. Therefore, the Court below has rightly dismissed the application filed by the petitioner/defendant No.1. I do not find any illegality in the impugned order dated 27.07.2015 passed by the Court below, warranting interference under Article 227 of the Constitution of India.

7 . Accordingly, this civil revision petition is dismissed, at the admission stage. As a sequel, miscellaneous petitions pending, if any, shall stand closed. No order as to costs.

JUSTICE R. SUBHASH REDDY

01.10.2015.

Msr

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