

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

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CIVIL REVISION PETITION Nos.1633 and 1667 of 2015

Between:

Akkala Bixapathy

....Petitioner

and

Naseerunnisa Begum and others

....Respondents

JUDGMENT PRONOUNCED ON : 29.12.2015

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO :

1. Whether Reporters of Local newspapers : Yes
may be allowed to see the Judgments?

2. Whether the copies of judgment may be : No
Marked to Law Reporters/Journals?

3. Whether Their Ladyship/Lordship wish to : No

see the fair copy of the Judgment?

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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CIVIL REVISION PETITION Nos.1633 and 1667 of 2015

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COMMON ORDER:

These two Civil Revision Petitions are being disposed of by this common order as they arise out of the same cause of action.

The petitioner is the plaintiff in O.S.No.2 of 2004 on the file of the learned Senior Civil Judge, Siddipet, Medak District. The said suit was filed for declaration of title and consequential injunction in respect of Ac.1.30 guntas in Survey No.53/A situated at Ponnala Village, Siddipet Mandal in Medak District. The said suit was filed with specific boundaries as follows:

"Boundaries:

East : Road

West : Land of Shakeel Hyder & others

North : Land of Shakeel Hyder & others

South : Arifunnisa Begum"

The evidence in the case was completed. Before completion of the evidence, the suit was amended to that of a suit for declaration and recovery of possession. Before the arguments, the plaintiff filed two applications, I.A.Nos.41 of 2015 and 42 of 2015, seeking amendment of the plaint and for reopening the suit in order to enable him to file amended plaint respectively.

The case of the plaintiff is that the original suit was filed for declaration of title and consequential injunction for the extent of Ac.1.30 guntas on the ground that he purchased the suit land from the legal heirs of one Mohd.Jahangir through a

registered sale deed dated 06.10.2003. Thereafter, he sought relief of possession in respect of the said land. But, the defendants took a plea of purchase of land from the southern boundary owner – Arifunnisa Begum, by the first defendant – Naseerunnisa Begum, through a registered sale deed dated 06.06.1997 marked as Ex.B6. Defendant Nos.2 to 4 are the younger brothers of the eldest son of the first defendant. Though the land purchased by the first defendant was another piece of Ac.1.30 guntas, which has nothing to do with the land of the plaintiff, in order to have better clarity, the plaintiff sought amendment of the plaint. The same was resisted by the respondents. The trial Court dismissed the applications holding as follows:

“Though in the written statement the defendants did not take any plea regarding identity of the suit property, as argued on behalf of the defendants, in the additional written statement at Para No.6 and Page No.8 it is clearly pleaded that the plaintiff filed suit with false boundaries with fabricated documents and with false allegations after father of the defendants sold away his own property of Ac.21-30 guntas to near about two hundred members and after knowing these facts. Moreover, though the plaintiff approached the court way back in the year 2004 i.e., about more than eleven years back seeking reliefs of declaration of title and permanent injunction and after amending the plaint for recovery of possession subsequently came forward with this petition only after conclusion of the evidence on both sides. In addition to it the plaintiff did not specifically allege and establish that in spite of due diligence he could not notice the said defect in the boundaries. It is also argued for the defendants that in Ex.A1 which is sale deed in favour of plaintiff executed by sons of Mohd.Jahangir who purchased the property from original owner and in Ex.B4 sale deed dated 13-05-1985 executed by original owner in favour of said Jahangir and in Ex.A18 ratification deed dated 07-04-2014 said to have been executed by the daughters of said Jahangir who are sisters of vendors of plaintiff the same boundaries as mentioned in plaint are mentioned and that now amendment cannot be permitted. In these circumstances and in the facts and circumstances of the case and in view of the strong contentions on behalf of defendants 1 to 4 that after conclusion of evidence the plaintiff wants to fill up lacunae and cause prejudice to the defendants by way of amendment, the court is of the considered opinion that the plaintiff is not entitled to amend the plaint as prayed for and for re-opening of the suit for purpose of amendment as it will cause prejudice and loss to the defendants as it will be amounting to allowing plaintiff to fill up. Hence, for all the aforesaid reasons the court holds that the plaintiff failed to prove that he is entitled for amendment of the plaint and for re-opening of the suit for that purpose. Points No.1 and 2 are answered accordingly.”

Challenging the aforesaid order, dated 09.04.2015, the present Civil Revision

Petitions are filed.

There is no dispute with regard to the identity of the land of the plaintiff and its extent, being Ac.1.30 guntas, and another extent of Ac.1.30 guntas was alleged to have been purchased by the first defendant from Arifunnisa Begum, who was shown as the owner of the land on the southern side. If a subsequent purchaser purchased the property from the original vendor, she will get right, title and interest of the original vendor only.

In the circumstances, there is no need to change the boundaries mentioned in the original plaint consequent to the purchase of the land from one of the owners of the neighbouring land. The suit can be continued with the names of the original vendors.

In the circumstances, this Court sees no ground to interfere with the order passed by the trial Court. The Civil Revision Petitions are, accordingly, dismissed. However, it is open to the plaintiff to bring the above facts to the notice of the trial Court at the time of arguments. The miscellaneous petitions pending in these Civil Revision Petitions, if any, shall stand closed. There shall be no order as to costs.

(A.RAMALINGESWARA RAO, J)

29.12.2015

vs

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