

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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CIVIL REVISION PETITION No.206 of 2015

ORDER:

Heard the learned counsel for petitioners and the learned counsel for respondents.

2. The petitioners herein are plaintiffs in O.S.No.67 of 2012 on the file of the Court of Additional District & Sessions Judge, Ranga Reddy District at Vikarabad (for short, trial Court). The petitioners filed the said suit for partition initially in the year 2008 before the Principal District Judge, Ranga Reddy District at L.B.Nagar and it was numbered as O.S.No.503 of 2008. Later on, it was transferred to the trial Court and it was renumbered as O.S.No.67 of 2012.

3. It appears that the evidence on the side of the petitioners was completed. At the stage of filing of the affidavit in lieu of chief examination on behalf of D.W.1, I.A.No.415 of 2014 was filed by the respondents for receiving certain documents and the same was allowed. Thereafter, the present application i.e., I.A.No.696 of 2014 was filed by the respondents seeking amendment of the written statement and the same was allowed by order dated 30.10.2014. Challenging the same, the present Civil Revision Petition is filed.

4. The order passed by the trial Court reads as follows:

“ Admittedly the documents are filed by the petitioner after her filing the Chief Affidavit of D.W.1 and then the petitioner filed a petition seeking to receive the documents vide I.A.No.415/2014 and the same was allowed which means the court permitted to use the documents filed vide IA.No.415/2014 in her defence, subject to proof and relevancy.

Hence in the above mentioned circumstances, if the amendment sought on the basis of the additional documents filed is not allowed

the very purpose of allowing IA.No.415/2014 would be lost and it would end in multiplicity of litigation, as such the petitioner should be allowed to amend the Written Statement but since it is filed at the stage of the suit, this point is decided in favour of the petitioner but on costs of Rs.500/- payable by 31.10.2014 without fail.”

5. The reason mentioned by the trial Court for allowing the application for amendment of the written statement is not proper, as the reception of documents is independent of the amendment of the written statement. It is for the respondents to show the justification for amendment of the written statement and the trial Court should have been satisfied with regard to the same. Merely because an application for receiving the documents was allowed, it does not automatically entail a party to amend the written statement. The evidence of the petitioners was completed and the amendment of the written statement is sought before the evidence of the respondents is commenced. Taking those circumstances into consideration, the trial Court should have passed an appropriate reasoned order. But, in this case, the application was allowed merely on the ground that an earlier application for receiving the documents was allowed.

6. In view of the same, the impugned order dated 30.10.2014 in I.A.No.696 of 2014 is set aside and the matter is remanded to the trial Court for passing appropriate orders in accordance with law, after hearing the parties.

7. The Civil Revision Petition is, accordingly, allowed. No order as to costs. Miscellaneous Petitions, if any pending, shall stand closed.

A.RAMALINGESWARA RAO, J

Date: 19.11.2015

TJMR