

HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY
CIVIL REVISION PETITION No.4518 of 2014

% 06.03.2015

Between:

Narani Jangaiah, S/o Late N.Rajaiah
and five others.

..... **Petitioners**

And:

\$ Pasham Anjaneyulu,
S/o Chenna Rayudu and six others.

.....**Respondents**

< Gist:

> Head Note:

! Counsel for the petitioners: Sri M.Venkat Narayana Reddy

^ Counsel for the Respondents: Sri Amarnath Goud
Thodupunuri

? Cases Referred:

NIL

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Counsel for the petitioners: Sri M.Venkat Narayana Reddy

Counsel for the Respondents: Sri Amarnath Goud
Thodupunuri

The Court made the following:

ORDER:

This Civil Revision Petition arises out of order, dated 20.10.2014, in I.A.No.296 of 2014 in O.S.No.137 of 2005 on the file of Junior Civil Judge, Ibrahimpatan, Ranga Reddy District.

I have heard Sri M.Venkat Narayana Reddy, learned counsel for the petitioners and Sri Amarnath Goud Thodupunuri, learned counsel for the respondents.

The petitioners have filed the above-mentioned suit for cancellation of registered sale deed bearing No.1828/1994, dated 12.08.1994, in favour of the respondents and also for perpetual injunction restraining the respondents and their agents from interfering with the suit schedule properties.

During the trial, the respondents have adduced documentary evidence including Exs.B-14, 16 and 17, which are pattadar passbooks and pahanies. After

completion of trial, the case underwent several adjournments for arguments. While so, in the midst of the arguments, the petitioners filed I.A.No.296 of 2014 under Order VI Rule 17 read with Section 151 of the Code of Civil Procedure for amendment of plaint to claim the relief of declaration of title and also for the relief of correction of record of rights in favour of the petitioners.

The respondents have resisted the said application. By order, dated 20.10.2014, the lower Court has dismissed the I.A. filed by the petitioners.

The main plank on which the petitioners have filed the application for amendment is that the respondents have created Exs.B-14, 16 and 17 during the pendency of the suit and that therefore it has become necessary for the petitioners to claim the relief of declaration of title and correction of entries in the record of rights. The lower Court in its detailed order has referred to the relevant facts and also assigned sound reasons for not permitting amendment.

Order VI Rule-17 C.P.C. empowers the Court to allow either party to alter or amend his pleadings in such manner and on such terms as may be just, and all such amendments shall be made as may be necessary for the purpose of determining the real questions in controversy between the parties. However, under the proviso to the said Rule, the discretion of the Court to allow such amendments is curtailed in cases where trial has been commenced and in such cases, unless the Court is satisfied that in spite of due diligence, the party could not have filed the application for amendment before the commencement of trial, it cannot permit such amendment.

In the instant case, not only that the trial was commenced but also the same was concluded long back. In the counter-affidavit filed on behalf of the respondents, they have pleaded that after completion of the arguments, with the request of the petitioners, the case was adjourned for further arguments and that since 10.07.2013, the petitioners have taken more than 20 adjournments on one pretext or the other for prolonging the litigation. No rejoinder is filed by the petitioners controverting this allegation.

In the affidavit, filed in support of the application, all that the petitioners have averred is that the cause of action for seeking the relief of declaration of title has arisen in view of the fact that respondent Nos.1, 3 and 4 have got wrongly entered their names in the patta column against the suit schedule property in the pahanies from the years 2005-06 onwards.

The pahani being a public record, the petitioners cannot feign ignorance of alteration of entries therein, which on their own showing has taken place since the year 2005-06.

Having filed the suit in the year 2005, I do not find any reason whatsoever for the petitioners not to have sought the proposed amendments within a reasonable time after the filing of the suit.

As rightly observed by the lower Court, since the respondents have been strongly asserting their title over the suit schedule property, the petitioners should have claimed the relief of declaration of title in the beginning itself. Even if for any reason there was a *bona fide* lapse on the part of the petitioners to claim such a relief initially, at least after the entries in the revenue record were

altered in favour of the respondents in the year 2005-06, they should have come out with the application for amendment.

It appears Exs.B-6 to B-17 were marked as far back as the year 2012. At least within a reasonable time of marking those documents, the petitioners should have filed the application for amendment. They have slept over various stages for a period of ten years and leisurely filed the application for amendment after completion of the trial and more than one year after commencement of the arguments. These facts would clinchingly establish that the mandatory requirement of satisfying the Court, that despite due diligence, they could not have filed the application for amendment earlier, has not been satisfied by the petitioners. The lower Court has, therefore, rightly dismissed the application. Hence, I do not find any reason to interfere with the order of the lower Court.

The Civil Revision Petition is, accordingly, dismissed.

As a sequel to dismissal of the Civil Revision Petition, CRPMP.No.6176 of 2014 filed by the petitioners for interim relief is dismissed as infructuous.

*JUSTICE C.V.NAGARJUNA
REDDY*

06th March, 2015

Note:

LR copies to be marked.

B/o

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