

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

CRP.No.5348 of 2015

ORDER :

This Revision is filed challenging the order dt.07.09.2015 in I.A.No.1358 of 2014 in O.S.No.610 of 2012 on the file of I Additional Senior Civil Judge, Warangal.

2. The petitioners herein are defendants in the above suit.

3. The 1st respondent herein filed the suit against petitioners for a perpetual injunction restraining petitioners from interfering with his lawful possession and enjoyment of plaint schedule property.

4. Written statement was filed by petitioners opposing the suit claim.

5. Thereafter, the respondent/plaintiff filed I.A.No.1358 of 2014 to amend the plaint by adding a paragraph mentioning certain additional facts. It was stated that these additional facts were not brought out in the plaint earlier, and no prejudice would be caused to petitioners if they are allowed to be included now in the plaint by way of amendment. It is further stated that the earlier counsel engaged by the respondent did not

mention these facts which relate to the origin of title of suit schedule property.

6. Counter-affidavit was filed by petitioners opposing the said application contending that the failure of earlier Counsel to mention these facts is not a ground to now permit amendment of the plaint. It was further contended that if the plaint is amended, it creates a new cause of action and changes the nature of pleadings.

7. By order dt.07.09.2015, the Court below allowed the said application. It held that the Court is entitled to exercise discretion by granting permission to amend the plaint, if omission to state facts initially is *bona fide*, and that by allowing the application for amendment the nature of the suit would not be changed. It further held that no prejudice would be caused to petitioners since they would get an opportunity to file additional statement, and no irreparable loss or prejudice would be caused to them.

8. Challenging the same, the present Revision is filed.

9. The counsel for petitioners does not dispute the fact that trial in the suit has not yet commenced. Therefore, the proviso to Order 6 Rule 17 C.P.C. which places a restriction on allowing amendments to pleadings after the trial commenced will not come into play.

10. Although the counsel for petitioners sought to

contend that two years after the suit has been filed the application for amendment has been filed, I am of the opinion that the said factor does not have much of a bearing in a situation where the trial has not yet commenced.

11. As rightly held by the Court below, if the amendment is allowed, no prejudice is caused to petitioners since they would get an opportunity to file additional written statement, and the omission to state the facts now sought to be included in the plaint by way of amendment also appears to be *bona fide*.

12. Therefore, I do not find any error of jurisdiction in the order passed by the Court below warranting interference by this Court under Article 227 of the Constitution of India. Therefore, the Civil Revision Petition is dismissed. No order as to costs.

13. As a sequel, miscellaneous petitions pending, if any, in this Revision shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 11-12-2015

Ndr/*