

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

Civil Revision Petition No.3953 of 2015

ORDER:

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This Civil Revision Petition under Article 227 of the Constitution of India by the plaintiff/Decree Holder is directed against the order dated 18.08.2015 of the learned II Additional Junior Civil Judge, Ranga Reddy District passed in I.A.no.714 of 2015 in O.S.no.85 of 2015 filed under Section 153 of the Code of Civil Procedure, 1908 ('the Code', for brevity) requesting to amend the plaint by correcting the door number in the schedule of the property as 1-1-11/1, New No.1-1-470/1 instead of 1-11-11/1, New No.1-1470/1.

2. I have heard the submissions of the learned counsel for the revision petitioner. I have perused the material record.

3. The case of the revision petitioner is that the suit-O.S.no.85 of 2015 was decreed on 05.05.2015 *ex parte* and that at the time of execution of the decree, when the Field Assistant of the Court went to the property for delivering the property, it came to light that the door number in the schedule of the property is incorrectly mentioned as 1-11-11/1, New No.1-1470/1 instead of 1-1-11/1, New No.1-1-470/1 and that therefore, the instant application in I.A.no.714 of 2015 was filed before the trial Court for correction of the door number in the schedule on the ground that it is a typographical mistake only with reference to the door number. The learned counsel for the petitioner would submit that the change of door number will only give the correct description of the property, but will not change the description of the property in entirety and that in view of the provision of law of Section 153 of the Code, such an amendment even at the stage of execution is permissible when the identity of the property is not in dispute.

4. Section 153 of the Code reads as under:

“**153. General power to amend:-** The Court may at any time, and on such terms as to costs or otherwise as it may think fit, amend any defect or error in any proceeding in a suit; and all necessary amendments shall be made for the purpose of determining the real question or issue raised by or depending on such proceeding.

153-A. xxxxxx

153-B. xxxxxx

5. Having regard to the submissions and the facts of the case and keeping in view the provision of law, this Court is satisfied that simply because there is a wrong mention of the door numbers in the schedule of the property of the suit, the Decree Holder cannot be deprived of the fruits of the decree and that the Court can direct the amendment of the schedule of the plaint and consequentially the decree on the basis of the pleadings as the identity of the property is not being changed by way of amendment now being sought in respect of the door numbers of the property. A genuine typographical mistake, which had occurred in mentioning the door number of the schedule property in the plaint can be permitted to be corrected by this Court by granting the prayer for amendment to give correct description of the property involved in the *lis*, more particularly when there is no variation in respect of the boundaries of the property as mentioned in the plaint and when the change of the door numbers alone is not going to affect the identity of the property in dispute. However, as rightly contended, the Court below did not properly appreciate the facts and the law, which is applicable to the facts peculiar to the case. Viewed thus, this Court finds that the order impugned calls for interference and is liable to be set aside.

6. In the result, the Civil Revision Petition is allowed setting aside the order dated 18.08.2015 in I.A.no.714 of 2015 in O.S.no.85 of 2015 on the file of the learned II Additional Junior Civil Judge, Ranga Reddy District. The trial Court is directed accordingly to permit the petitioner to amend the plaint as prayed for and consequentially grant the amendment of the decree as prayed for.

There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this revision shall stand closed.

M. SEETHARAMA MURTI, J

15th February 2016

Note:- Issue CC by 17.02.2016

(B/o)

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