

HON'BLE SRI JUSTICE S.V. BHATT

C.R.P. No.5247 OF 2015

ORDER:

Heard Ms.T.Manjula for the petitioner and Mr.M.Subba Reddy for the respondents.

1st defendant in O.S. No.206 of 2005 in the Court of Principal Junior Civil Judge, Kovur is the revision petitioner. The revision petitioner filed I.A. No.392 of 2015 under Order VI Rule 17 CPC for amendment of written statement dated 03.11.2015 and additional written statement dated 28.10.2011.

Before examining the reasons in the order under revision the proposed amendments are excerpted hereunder:

"Proposed Amendments:

1. Insert " and also not true that" before the words "Pothireddy Subbama" in the 5th line of Para-3 of the first and Additional Written Statements.
2. Insert "and also not true that" before the words "the Registered Will" in the 11th line of Para-3 of first written statement and 12th line of Para-3 of Additional Written Statement.
3. Insert "and also not true that:" before the words "as the thatched" in 15th line of Para-3 of first written statement and in the 5th line at Page 2 of Para-3 of Additional Written Statement.
4. Insert "alleged" before the words "Joint varasandhu" in 17th line of Para-3 of first written statement and in the 7th line at Page-2 of Para-3 of Additional Written Statement.
5. Delete "me" in the 5th line at Page-2 of Para-3 of first written statement and in the 18th line of Para-3 at Page-2 of Additional Written Statement and insert in its place "this defendant."
6. Insert "and also not true that" before the word "Subsequently" in 6th line at Page-2 of Para-3 of first written statement and in the 19th line at Page-2 of Para-3 of Additional Written statement.
7. Insert "and also not true that" before the words "the plan approved" in the 17th line of Para-4 at Page-2 of first written statement and 7th line at Page-3 of Para-4 of Additional Written Statement.
8. Insert "and also not true that" before the words "hence the plaintiffs" in the 26th line of Para-4 at Page-2 of first written statement and in the 18th line at Page-3 of Para-4 of Additional Written Statement.
9. Insert " It is false to state that" before the words " as per the Will" in the 5th line of Para-5 at Page-3 of first written statement and in the 6th line at Page-5 of Para-6 of Additional Written Statement.
10. Insert " and that" before the words "the plaintiff is" in the 7th line of Para-5 at Page-3 of first written statement and in the 8th line at Page-5 of Para-6 of Additional Written Statement."

One G.Sridhar Reddy, learned Advocate, filed the affidavit setting out the facts and circumstances in which the avoidable mistakes in the written statement have crept in and the limited scope of proposed amendment.

Respondents 1 to 4 opposed the prayer for amendment of written statement. The trial Court was persuaded by the objections raised by respondents 1 to 4 herein and dismissed the I.A. Hence the revision.

Ms.T.Manjula, learned counsel vehemently contends that the trial Court committed serious illegality by not appreciating the affidavits filed in support of I.A.No.392 of 2015 and relied upon the decision reported in **Bodhan Filling Station v. B.Padmavarthi and another**^[1]. She contends that the defendant can take inconsistent pleas and the amendment is correction and clarification. The revision petitioner is not introducing a new case but through amendment correcting the avoidable mistakes in written statement. Respondents 1 to 4 herein do not suffer any prejudice or injustice even if I.A. is allowed.

On the other hand, Mr.M.Subba Reddy submits that hardly any ground is made out for inference by this Court in the order under revision under Article 227 of the Constitution of India.

I have perused the affidavits filed in support of I.A.No.392 of 2015 and the findings recorded by the trial Court. *Prima facie*, I am satisfied that the approach of trial Court in refusing to permit the defendant to amend written statement is not based on the well settled proposition of law, more particularly, the discretion a Court exercises in considering request for amendment of written statement. The reasons for dismissal of I.A. No.392 of 2015 are not convincing. Without going into the merits or otherwise of the proposed amendments, I am satisfied by ordering I.A. No.392 of 2015 respondents 1 to 4 are not put to hardship or irreparable injury. On the other hand, the purpose of the proposed amendments is to correct inadvertent mistake in the written statement and additional written statement. For the above reasons, order under revision is set aside and the C.R.P. is allowed. No order as to costs. The revision petitioner is directed to carry out amendments and file neat copies of written statement and additional written statement on or before 25.03.2016.

Miscellaneous petitions pending, if any, shall stand closed.

S.V.BHATT, J

Date:29.01.2016

Note:

C.C. in two days.

B/o.

Stp

[\[1\]](#) 2015 (3) ALT 487