

*** THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM**
+ CIVIL REVISION PETITION Nos.5408 and 5425 of 2016

% 04.11.2016

Smt. B.Narsimhulu and another

... Petitioners

Vs.

\$ T.Venkateswarlu

.... Respondents

! Counsel for the Petitioner: Sri Rajagopallavan Tayi

Counsel for Respondents:

<Gist :

>Head Note:

? Cases referred:



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COMMON ORDER:

These Civil Revision Petitions are filed questioning the dismissal of I.A.Nos.134 and 133 of 2016 in O.S.No.139 and 114 of 2013 respectively filed by the petitioners seeking amendment the written statements filed in the respective suits.

2. The petitioners in these revisions filed the impugned I.As. stating that after filing of the written statements, they came to know that the respondents filed the suits without properly valuing the suits; that the calculations shown in the plaints are in wrong methods; and that if the interest calculated in correct method, the suits valuation will come beyond the territorial jurisdictions. The amendments sought for by the petitioners under the impugned I.As, being one and the same, reads as follows:

“The plaintiff filed the suit without properly valued. The calculations were shown in the plaintiff are in wrong method. If the interest calculated in correct method the suit valuation will come beyond the territorial jurisdiction of this Hon’ble Court. This Court has no jurisdiction to entertain the suit. The suit is liable to be dismissed.”

3. Respondents opposed the same by filing counters stating that the written statements were filed on 04.03.2014 and 31.10.2013 and the I.As were filed at a belated stage after lapse of many years. The pleas

raised under the impugned amendments are all vague pleas and the same are filed only for dragging the matters.

4. Sri Rajagopallavan Tayi, learned counsel for the petitioners, submits that the suits came to be filed for recovery of Rs.One lakh and interest is claimed at 24% per anum each. If the same is calculated the value of the suits will be increased, which would take the suits beyond the territorial jurisdictions of the courts and in order to file the suits only before the courts of Junior Civil Judge, the plaintiff did not claim the interest and valued the suits only for Rs.One lakh. Inasmuch as the suits have been valued for less, the said pleas were not taken up by the petitioners at an earlier point of time. Learned counsel further submits that at any rate the amendments sought for by the petitioners would not have been caused any detriment or prejudice to the plaintiff and further the court has dismissed the I.As. totally on a different ground than the ground on which the petitioners had pleaded in their respective counter affidavits.

5. A reading of the impugned orders clearly show that the impugned IAs were dismissed taking into consideration of the arguments advanced at the bar to the effect that it is always open for the plaintiff to limit the relief which he is seeking even by foregoing any reliefs which he otherwise would have been entitled in law. Merely because the said aspect was not stated in the counter affidavits, that by itself cannot be taken as a ground by the petitioners. The proposition, which the court had taken into consideration, that it is

within the right of the plaintiff to forego the relief, which he is entitled to claim under law, cannot be found fault with. More often a practical view is taken by the litigant public that in spite of the fact that they may have claimed interest at 24%, in majority of cases the courts are granting interest only at 6% or 9% per anum notwithstanding the stipulation under Section 34 of the CPC that interest may be awarded at the contractual rates. To avoid payment of large amount of court fees, it is the usual and normal practice of the parties suing for recovery of the money lent keeping in view the awarding of reliefs which they are claiming.

6. Further, the petitioners simply stating that after filing of the written statements, they came to know that the plaintiff filed the suits without proper valuation and the same necessitated seeking of amendment of the written statements, they have not stated as to why the said pleas could not have been taken at the earliest point of time. It is also not the case of the petitioners that there are any new material which otherwise were not available at the time of filing of the written statements. There being no reason to interfere with the orders passed by the Court below, these revision petitions are not maintainable and are liable to be dismissed.

The Civil Revision Petitions are accordingly dismissed. As a sequel, the miscellaneous applications, if any, shall stand closed. There shall be no order as to costs.

JUSTICE CHALLA KODANDA RAM

November 4, 2016

Note:-

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