

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

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Civil Revision Petition No.5101 of 2015
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ORDER:

This civil revision petition under Article 227 of the Constitution of India by the unsuccessful petitioner/plaintiff is directed against the orders dated 09.10.2015 of the learned Junior Civil Judge at Luxettipet passed in IA.no.164 of 2015 in OS.no.13 of 2012 filed under Order VI Rule 17 of the Code of Civil Procedure, 1908 for amendment of the plaint as stated in the affidavit filed in support of the petition.

2. I have heard the submissions of the learned counsel for the revision petitioner/plaintiff ('the plaintiff', for brevity) and the learned counsel for the respondents/defendants ('the defendants', for brevity). I have perused the material record.

3. In a suit for perpetual injunction, when the suit is at the stage of trial, the plaintiff sought amendment of the plaint to incorporate a paragraph, which runs as follows: - *"She acquired an extent of Ac.0.39 gts., in sy.no.215 of from her parents under succession and she acquired the remaining extent of ac.1.15 gts in same sy.No. from her sons Pudari Mohan and Jeevan. Originally, Allamla chandraiah purchased the said ac.1.15 gts land from Gangineni Hanmanthu long back prior to 1976 and he obtained a decree against Gangineni Hanmanthu vide OS.no.251/1976 dt.31.8.1976. The said decree was not implemented in Revenue record and he was in possession of said land. In the year 2003, Allamla Chandraiah sold the said land to Nalluri Laxmi through Regd.Sale deed no.3752/2003 dt.12-6-2003. The said document was also not implemented in Revenue record, but she was in possession of the said land. In turn, Nalluri Laxmi sold the said land Pudari Mohan and Pudari Jeevan, who are the sons of the plaintiff through Agreement of sale deed dt.25-7-2011. The sons of plaintiffs obtained possession from Nalluri Laxmi, and gave the possession to the plaintiff and*

the plaintiff has been in possession of the suit land measuring ac.2-14 gts in sy.no.215 of Balraopet village. Gangineni Hanmanthu sold 0.08 guntas land in sy.No.215 Balraopet village exceeds his share to one Allamala Chandraiah that land belongs to plaintiff.” [Reproduced verbatim]. The defendant filed a counter stating that by the proposed amendment, the plaintiff is changing the cause of action as well as the nature of the suit and that the plaintiff is now taking a stand inconsistent with the stand originally taken in the original plaint and that the amendment sought for cannot be permitted under facts and in law.

4. A perusal of the order impugned shows that the said order is passed in a casual manner without adverting to the pleadings of the parties. It is simply observed in the order that ‘the petitioner is seeking to amend the suit by stating that instead of mentioned that plaintiff has acquired the suit schedule property through inheritance they wrongly mentioned as through succession’, and after so observing the petition was dismissed. In view of the fact that the order is not a reasoned order and is one passed without application of mind and since the order is not in conformity with the norms in accordance with which the order has to be passed and as the order is wholly unsatisfactory, this Court is of the well considered view that the order warrants interference and that the application requires fresh disposal on merits.

5. In the result, the Civil Revision Petition is allowed and the order impugned is set aside; and, IA.no.164 of 2015 in OS.no.13 of 2012 is remitted to the trial Court for *de novo* disposal in accordance with the procedure established by law. Considering the fact that the suit is of the year 2012, the trial Court is directed to dispose of the application as directed in this order as expeditiously as possible and preferably within two (02) months from the date of receipt of a copy of this order. There shall be no order as to costs.

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

M. SEETHARAMA MURTI, J

20th April, 2016
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