

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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CIVIL REVISION PETITION No.3877 of 2015
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ORDER:

The petitioners herein are the plaintiffs in O.S. No.464 of 2004 on the file of the learned Principal Junior civil Judge, Tirupathi.

The said suit was filed for a declaration of title and for permanent injunction in respect of 29 cents of land in Survey No.271/3. The evidence was completed in the suit. At the stage of arguments, the plaintiffs filed I.A. No.518 of 2015 seeking amendment of the plaint on the ground that 4 cents of land was acquired by the Government for extension of the road and a new survey number was allotted for the acquired land and what remained is only 25 cents in Survey No.217/3A1. He stated that the proceedings were issued by the competent authority/Revenue Divisional Officer on 23.04.2013 and the compensation amount was also paid to him. In view of the subsequent events, he wanted amendment of the plaint.

A detailed counter affidavit was filed by respondent No.12 stating that earlier the petitioner filed I.A. No.887 of 2013 seeking amendment of the plaint schedule property and the said petition was dismissed on merits on 06.06.2014. Challenging the said order, the petitioner preferred C.R.P. and the same is pending. Ultimately, the petition filed by the petitioner was dismissed by observing as follows:

“Petitioner is contending that the suit was filed for Ac.0-29 cents in S.No.271/3 and an extent of Ac.0-11 cents was acquired for formation of road. Again an extent of Ac.0-04 cents was acquired by way of land acquisition for extension of the road. The said extension was allotted in S.No.271/3A2 and presently there is an extent of Ac.0-25 cents in S.No.271/3A1. Therefore the present petition for amendment of the plaint schedule property for the extent in existence as on today to an extent of Ac.0-25 cents in S.No.271/3A1.

The suit is filed by the plaintiff claiming his right to an

extent of Ac.0-29 cents in S.No.271/3B. However the petitioner under the guise of the present petition claiming his right over the S.No.271/3A. There is no explanation from the petitioner how he is entitled to claim his right over the S.No.271/3A. The affidavit averments shows that Government has acquired Ac.0-04 cents of land in S.No.271/3A and allotted S.No.271/3A2 to the said extent of Ac.0-04 cents which was acquired by way of land acquisition. Therefore the present proposed amendment cannot be permitted. Further if the proposed amendment is allowed it will change the nature and character of the suit. As per the counter averments it is made clear that the previous petition filed by the petitioner herein for the very same relief was dismissed by this court and CRP filed by the petitioner against the orders passed by this court in I.A. No.887/2013 was pending before the Hon'ble High Court. For this reason also petitioner is not entitled to claim any relief under the present petition”

Since the evidence was already let in by both the parties on the basis of description mentioned in the plaint, the subsequent events have no effect on the suit survey number and no amendment is necessary, in view of the acquisition of 4 cents of land by the Government. The order passed by the trial Court is correct and it does not need any interference.

Accordingly, this Civil Revision Petition is dismissed. No order as to costs.

It is needless to observe that the trial Court shall dispose of the suit uninfluenced by the observations made in I.A. No.518 of 2015.

Miscellaneous Petitions, if any, pending in this Civil Revision Petition shall stand closed.

A.RAMALINGESWARA RAO, J

09.02.2016

MVA