

THE HON'BLE SRI JUSTICE M.S.K.JAISWAL

CIVIL REVISION PETITION No.581 of 2016

ORDER:

This civil revision petition is filed questioning the correctness of the order, dated 21.08.2015, in I.A.No.820/2014 in O.S.No.93/2013, on the file of the Principal Junior Civil Judge, Vizianagaram.

Heard the learned counsel for the petitioners/plaintiffs.

The application is filed by the petitioners/plaintiffs under Order 6 Rule 17 CPC seeking to amend the prayer of the plaint, so as to include the relief of declaration of title. The learned Junior Civil Judge has dismissed the said application, holding that the suit is valued for Rs.1,50,000/- being 3/4th market value for the total value of the property i.e., Rs.2,13,320/- and the court below is not having pecuniary jurisdiction to try the suit as it exceeded Rs.1,00,000/- as on the date of filing of the petition.

What could be gathered from the above order is that the learned Junior Civil Judge has refused to entertain the amendment petition on the ground that if the amendment is allowed, it would oust the jurisdiction of the Junior Civil Judge. In my opinion, it is not correct approach by the learned Junior Civil Judge. If there are grounds to allow the amendment petition, the same cannot be refused merely on the ground of exceeding of its jurisdiction. Therefore, the matter needs to be remanded back for fresh disposal and the impugned order is liable to be set aside.

Accordingly, the impugned order dated 21.08.2015 is set aside and the matter is remanded back to the Court below directing to consider and dispose of the matter afresh, in accordance with law, without being influenced by any of the observations made in this order, and in the event of amendment being allowed and if it exceeds the jurisdiction of the Court below, the plaint shall be returned to the plaintiffs for being represented before the proper court.

The Civil Revision Petition is accordingly disposed of. No order as to costs.

Pending miscellaneous applications, if any, shall stand closed in consequence.

M.S.K.JAISWAL,J

Date: 26.02.2016

Dsr