

HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN

Civil Revision Petition No.5322 of 2016

Order:

Aggrieved by an amendment allowed to the plaint, the 2nd defendant has come up with the above revision.

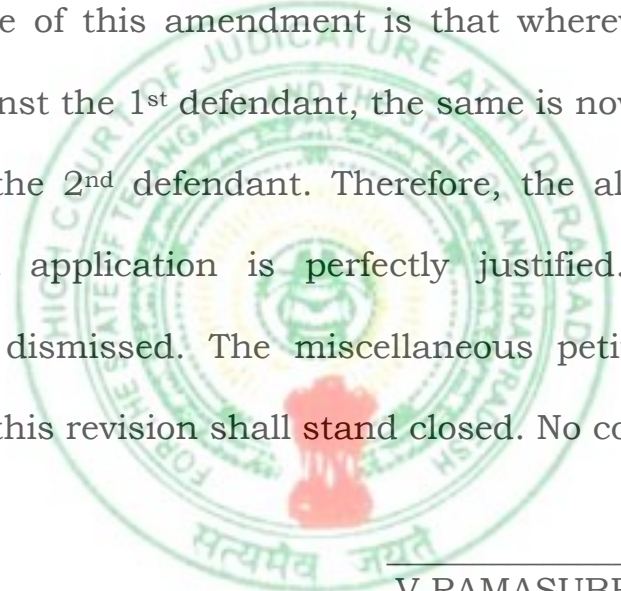
2. Heard Mr. Raja Bhogendra Nath S., learned counsel for the petitioner.

3. The 1st respondent herein filed a suit for declaration and mandatory injunction as against two defendants, who are the petitioner herein and the 2nd respondent herein. The entire plaint proceeded on the basis that the reliefs are to be granted against the 1st defendant. But a written statement was filed claiming that the 1st defendant had already relinquished his rights in the said property in favour of the 2nd defendant under a document dated 24-4-2006. Therefore, the plaintiff sought amendment of the plaint only to the extent that the word "1st defendant" shall be substituted with the word "2nd defendant" in certain paragraphs of the plaint. The Trial Court allowed the same and the 2nd defendant is before me.

4. The Court below was right in holding that there was no new cause of action for the denial of the amendment sought for. The amendment was necessitated on account of the revelation made in the written statement. The petitioner did not attribute knowledge of the execution of the relinquishment deed to the plaintiff, before the written

statement was filed. All that, the petitioner contended was that he had already filed a caveat. But a caveat petition need not be an indication that a relinquishment deed has been executed.

5. In the absence of any pleading or proof to show that the petitioner was aware of the registration of the relinquishment deed by the 1st defendant in favour of the 2nd defendant, even before the institution of the suit, the 2nd defendant cannot oppose such an amendment. The only consequence of this amendment is that wherever a relief is sought against the 1st defendant, the same is now modified, to substitute the 2nd defendant. Therefore, the allowing of the amendment application is perfectly justified. Hence, the revision is dismissed. The miscellaneous petitions, if any, pending in this revision shall stand closed. No costs.



V.RAMASUBRAMANIAN, J.

18th November, 2016.
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