

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

Civil Revision Petition No.3146 of 2015

Date: 06-01-2016

Between:

Kamana Rukmangadara Rao and another

.. Petitioners

AND

Aalapati Kasi Subrayan

.. Respondent

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

Civil Revision Petition No.3146 of 2015

ORDER:

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The petitioners are defendants 1 and 2 in O.S.No.281 of 2010 on the file of IV Additional District Judge, Tanuku. The suit was filed by the respondent herein for passing a preliminary decree on the basis of equitable mortgage created by the defendants over the plaint schedule property of Ac.0.70 cents in R.S.No.181/1 situated at Duvva village, Tanuku Mandal, West Godavari District. The petitioners filed their written statement and the evidence of the plaintiff was closed. At that stage, the petitioners filed I.A.No.172 of 2015 seeking amendment of the written statement in order to clarify the acquisition of title as per the recitals of the settlement deed to only Ac.0.35 cents. The respondent-plaintiff filed a counter stating that the proposed amendment is contrary to the recitals in the document, registered settlement deed and it also introduced a new plea after closure of plaintiff's evidence. The plaintiff further stated that the proposed plea amounts to withdrawal of earlier admission in the legal

notice. The learned IV Additional District Judge, Tanuku, dismissed the application on the ground that the proposed amendment has got the effect of the changing the very nature of the plea taken by the defendants. The Court below also opined that it amounts to setting up a new defence, which prejudices the case of the plaintiff.

This Court in a recent judgment in **P. Rajani v. P. Narasamma and others (C.R.P.Nos.1032 and 1041 of 2015 dated 14-12-2015)** held that the consideration for amendment of pleadings in the case of written statement would be different from the amendment of plaint and it is always open to the defendant to clarify the earlier written statement without withdrawing the admissions. The legal position was brought out in the said decision.

In view of the same, the impugned order dated 13-04-2015 in I.A.No.172 of 2015 in O.S.No.281 of 2010 is set aside and I.A.No.172 of 2015 is allowed to the extent of clarifying the earlier written statement in the light of the observations made supra.

The Civil Revision Petition is allowed accordingly. No costs. As a sequel thereto, miscellaneous petitions, if any, pending shall stand closed.

A. RAMALINGESWARA RAO, J

Date: 06-01-2016

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