

HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

CIVIL REVISION PETITION No.585 of 2016

Date:05.02.2016

Between:

Guttikonda Sivaiah @ Sambasiva
Rao, S/o Late Krishna Murthy

..... Petitioner

And:

Ponduri Krishna Brahman,
S/o Late Veeraiah and two others.

.....Respondents

Counsel for the Petitioner: Mr. S.Sridhar

Counsel for the Respondents: None appeared

The Court made the following:

ORDER:

This Civil Revision Petition arises out of order, dated 26.10.2015, in I.A.No.1510 of 2015 in O.S.No.266 of 2013 on the file of Senior Civil Judge, Sattenapalli.

I have heard Mr. S.Sridhar, learned counsel for the petitioner and perused the record.

Respondent No.1 filed the above-mentioned suit for declaration that the sale deed dated 30.3.2001, executed by defendant No.1 is null and void and not binding on him. It is the pleaded case of respondent No.1

that his grandfather i.e., defendant No.1 during his lifetime has executed a registered settlement deed settling the property in favour of his son who is no other than the father of respondent No.1 with a limited interest and conveyed the vested remainder to respondent No.1. However, thereafter, as defendant No.1 has sold the property to the petitioner, respondent No.1 filed the above-mentioned suit. After the completion of trial and before the disposal of the suit, respondent No.1 has filed I.A.No.1510 of 2015 under Order-VI Rule-17 read with Section-151 of the Code of Civil Procedure for permission to amend the plaint in order to include the relief of recovery of possession. This application was opposed by the petitioner. However, the lower Court has allowed the same by the order under revision.

At the hearing, Mr. S.Sridhar, learned counsel for the petitioner, submitted that the father of respondent No.1 has died as far back as the year 2010 and that therefore respondent No.1 ought to have been vigilant in claiming the relief of recovery of possession also while filing the suit.

Ordinarily, the Courts must be liberal in allowing the applications for amendment, unless by such amendment serious prejudice is caused to the opposite party or the nature or character of the suit undergoes a radical change.

It is not the pleaded case of the petitioner that the character of the suit will drastically change if the plaint is amended for claiming the relief of recovery of possession. On the contrary, the necessity of filing a separate suit will be obviated in the event the suit is decreed in favour of respondent No.1. Therefore, instead of driving respondent No.1 to file a fresh suit for recovery of possession if he succeeds in the present suit, it is always desirable to allow him to amend the suit to avoid

multiplicity of proceedings. By allowing the amendment, no serious prejudice would be caused to the petitioner. Instead, he will not be subjected to a fresh suit in future.

On the analysis as above, this Court is of the opinion that the lower Court has not committed any error, jurisdictional or otherwise, in allowing the application filed by respondent No.1 for amendment of the plaint.

The Civil Revision is, accordingly, dismissed.

As a sequel to dismissal of the Civil Revision Petition, CRPMP.No.736 of 2016 shall stand dismissed as infructuous.

*JUSTICE C.V.NAGARJUNA
REDDY*

*05th February, 2016
DR*