

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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CIVIL REVISION PETITION No.4916 OF 2014

ORDER:

The petitioners herein are plaintiffs in O.S.No.57 of 2011 on the file of the Court of the Junior Civil Judge, Parigi, Ranga Reddy District (for short, trial Court). They filed the said suit against the respondents herein seeking permanent injunction in respect of plaint A to C schedule properties with specific boundaries. After filing the written statement, the petitioners filed I.A.No.80 of 2012 seeking amendment of the plaint with correct boundaries in respect of plaint A schedule property stating that some mistakes crept in due to typographical error in describing the boundaries. The boundaries on north and south are shown as east and west and east and west are shown as north and south. The respondents filed a counter and opposed the application stating that the total boundaries of the suit lands are incorrect and do not tally on the spot. They also stated that the location of the suit lands itself is doubtful with the registered sale deed and other documents and the present application was filed after specific denial made in the written statement.

2. The trial Court dismissed the application, by its order dated 25.06.2014, only on the ground that the trial in the case was already commenced. The relevant portion of the order reads as follows:

“4. This court perused the petition and counter averments and all other documents available on the record. This court noticed that the present petition is filed at the time of trial, that too after framing issues. So the trial almost commenced. As per Order 6 Rule 17 C.P.C., the Court can amend the pleadings at any stage. However before commencing of trial. As already stated by this Court in this case trial was already commenced. Further this Court observed that the petitioner herein filed this petition only after filing written statement and counter by the respondent and raising objection about the boundaries. The respondent herein already taken plea in his written statement about non mentioning of proper boundaries. So at this stage this Court is of the view that if the present petition is allowed it is nothing but allowing the petitioner to cover up his latches. Hence in view of the above discussion this Court is not inclined to allow this petition. Accordingly this petition is dismissed.”

Challenging the said order, the present Civil Revision Petition is filed.

3. The suit is of the year 2011 and the present application was filed only in the year 2012. The evidence of the parties has not yet been commenced. In the circumstances, it cannot be said that any prejudice is caused for the defence if the petition is allowed. Hence, the impugned order of the trial Court dated 25.06.2014 is set aside and I.A.No.80 of 2012 allowed.

4. Accordingly, the Civil Revision Petition is allowed. Miscellaneous petitions pending, if any, shall stand closed. No order as to costs.

A.RAMALINGESWARA RAO, J

Date: 28.01.2016
TJMR