

THE HON'BLE SRI JUSTICE M.S. RAMACHANDRA RAO

CIVIL REVISION PETITION No.1390 of 2016

ORDER:

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This Revision is filed challenging the order dt.25-01-2016 in I.A.No.890 of 2015 in O.S.No.37 of 2011 of the Principal Junior Civil Judge, Palakol.

2. Petitioners herein are defendants in the above suit. The respondents/plaintiffs filed the above suit seeking relief of perpetual injunction restraining the petitioners from entering DEFC area in the plaint plan of extent 315 sq. yards.

3. Written statement was filed by petitioners opposing the grant of relief to respondents. The trial has not yet commenced.

4. At that stage, I.A.No.890 of 2015 was filed by respondents under Order VI Rule 17 C.P.C. to amend the plaint by adding two paragraphs i.e. para-6A and 7-B in the plaint. These new paragraphs contain the recitals in a sale deed dt.21-03-2009 already filed by respondents and pleadings based thereon.

5. Counter-affidavit was filed by 4th petitioner herein opposing the amendment and raising certain contentions on merits of the case set up in the amendment.

6. By order dt.25-01-2016, the Court bellow allowed the

said application. It held that respondents were not pleading new facts or creating any new rights by way of the proposed amendment, and since the sale deed dt.21-03-2009 being relied upon by respondents was already filed, no prejudice is caused to petitioners. It also held that in order to avoid multiplicity of proceedings, opportunity may be given to respondents to amend the pleadings.

7. Challenging the same, this Revision is filed.

8. Heard Sri Dasari S.V.V.S.V. Prasad, learned counsel for petitioners and Sri P.S.P. Suresh Kumar, learned counsel for respondents.

9. Leaned counsel for petitioners stated that although trial has not commenced, it was not open to respondents/plaintiffs to amend the pleadings since they have not taken the pleadings raised by way of amendment in the original plaint.

10. This contention has no merit in as much as the purpose of allowing amendment is to state the facts which were not originally pleaded. Since trial has not in any way started, no prejudice would be caused to petitioners and petitioners would have the opportunity to file amended written statement or additional written statement if I.A.No.890 of 2015 is allowed by the Court below.

11. Therefore, I do not find any error of jurisdiction in the order passed by the Court below warranting interference by

this Court under Article 227 of the Constitution of India.

12. The Civil Revision Petition is accordingly dismissed. No costs.

13. As a sequel, miscellaneous petitions pending if any, in this Civil Revision Petition shall stand closed.

JUSTICE M.S. RAMACHANDRA RAO

Date: 10-06-2016

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