

THE HON'BLE SRI JUSTICE A. RAJASHEKER REDDY

CIVIL REVISION PETITION No. 1669 of 2011

ORDER:

This Civil Revision Petition is filed by the petitioner/ plaintiff against the order dated 11.02.2011 passed by the XXII Junior Civil Judge, City Civil Court, Hyderabad, in I.A.No.67 of 2010 in O.S.No.1003 of 2006 wherein the application filed by the petitioner under Order VI Rule 17 r/w Section 151 of CPC seeking amendment of plaint was dismissed.

The case of the petitioner is that he filed the aforementioned suit for permanent injunction restraining the respondents from interfering with his peaceful possession and enjoyment of suit schedule property, along with I.A.No.175 of 2006 for interim injunction. Pending disposal of the said application, he noticed that some masons and labour were digging the suit schedule property on 31.03.2006 illegally and unauthorisedly, wherein he laid two slabs and constructed staircase leading to first floor. When he questioned them, they informed that the 3rd respondent had engaged them to construct walls and rooms in the suit schedule property. The 3rd respondent filed a counter in the said application stating that the 2nd respondent initiated action under A. P. Land Encroachment Act based on TSLR record, and in pursuance of that, he got possession of the suit land, and that under cover of panchanama dated 23.07.2005 and under a concluded agreement dated 10.03.2006, he initiated the work for construction of MRC building. It is also the case of the petitioner that he had been dispossessed from the property by

the respondents on 31.3.2006 and the 3rd respondent is in possession of the property. He also filed I.A.No.1019 of 2006 seeking interim orders restraining the 3rd respondent from proceeding with the construction of walls and rooms in the property, but both the applications were dismissed. Therefore, he filed I.A.No.67 of 2010 seeking amendment of the plaint and the prayer. The said application was dismissed on the ground of limitation that the petitioner was dispossessed on 31.03.2006 whereas the present application was filed on 25.02.2010 beyond the period of limitation. Questioning the same, he filed the present revision petition.

Though notices are served on the respondents, there is no appearance on their behalf.

Learned counsel for the petitioner contends that the limitation for filing a suit for recovery of possession from the date of dispossession is 12 years, and as such, the order of the trial Court is liable to be set aside.

Article 64 of the Limitation Act, 1963 provides a limitation of 12 years from the date of dispossession for a suit for possession of immoveable property based on previous possession and not on title when the plaintiff while in possession of the property has been dispossessed. In view of the same, this Court is of the opinion that without going into the merits of the case, the trial Court dismissed the application only on the ground of limitation. Therefore, the impugned order is liable to be set aside.

Accordingly, the Civil Revision Petition is allowed and

the impugned order is set aside. The XXII Junior Civil Judge, City Civil Court, Hyderabad, is directed to dispose of I.A.No.67 of 2010 on merits, in accordance with law, at the earliest. There shall be no order as to costs.

Consequently, miscellaneous petitions, if any, pending in the revision petition shall also stand dismissed.

A. RAJASHEKER REDDY, J.

29th February, 2016
cbs

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