

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

-

CIVIL REVISION PETITION No.2142 of 2014

ORDER:

The petitioner is plaintiff in O.S.No.372 of 2009 on the file of Junior Civil Judge, Jangareddigudem, West Godavari District. The said suit was filed for specific performance of Agreement of Sale, dated 24.02.1999 executed by one late Konda Subbarao. Issues were framed and at the stage of evidence of plaintiff, the plaintiff filed I.A.No.315 of 2012 seeking amendment of prayer. When that application was dismissed on 17.07.2013, the present Civil Revision Petition is filed.

2. In the affidavit filed in support of the petition, the petitioner stated that after filing of the written statement by the respondents/defendants, the petitioner came to know that defendants 2 and 3 alienated the suit schedule property to respondents 4 and 5 and they are in possession of the same. In those circumstances, the plaintiff wanted the relief of execution of sale deed from respondents 4 and 5 along with respondents 1 to 3. Accordingly, he filed an application seeking necessary amendments to the plaint and the relief portion.

3. Counter was filed stating that petitioner cannot seek amendment of plaint as the trial of the suit was already commenced. Written statement was filed in the year 2006 and the petitioner, having knowledge about the same, waited till commencement of the trial. The trial was commenced in the year 2010. The present application was filed in the year 2012. The trial Court dismissed the application only on the ground that the petitioner did not take steps immediately after coming to know about the taking possession of schedule property by defendants 4 and 5 and filed the present petition only after filing of chief-examination affidavit of P.W.1. If the amendment is allowed, it would change the nature of the suit.

4. Admittedly, respondents 4 and 5 were already arrayed as parties to the suit. They had an opportunity to file their written statement. The main ground on which amendment sought for is execution of the sale deed from respondents 4 and 5 along with respondents 1 to 3. In the circumstances, no prejudice would be caused to the case of the respondents if the petition is ordered. In view of the same, the impugned order, dated 17.07.2013 passed in I.A.No.315 of 2012 is set aside and the application is allowed

5. Accordingly, the Civil Revision Petition is allowed. In view of pendency of the suit since 2009, the trial Court shall dispose of the suit, as expeditiously as possible, but not later than 30.09.2016. There shall be no order as to costs. Miscellaneous petitions, if any, pending in this revision petition shall stand closed.

A. RAMALINGESWARA RAO, J

JANUARY 22, 2016
YVL

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

-
-
-
-
-
-
-
-
-
-
-

CIVIL REVISION PETITION No.2142 of 2014

Date: 22.01.2016

YVL