

HON' BLE Dr. JUSTICE B. SIVA SANKARA RAO

C.R.P. No.5506 of 2015

ORDER :

The unsuccessful petitioner, in I.A. No.251 of 2015 in the pending suit O.S. No.204 of 2011, from dismissal by order dated 15.10.2015, of his application to amend the written statement to permit correction of the year 2005 to 2008 in the third paragraph of the written statement, saying typographical and inadvertent mistake and to add some expression regarding the so called fabrication of the alleged suit pronote, maintained the revision. The contentions raised in the revision are that it is just, after commencement of the evidence of the plaintiff, in the course of cross examination, it is noticed and filed the application and there are no willful latches in seeking the amendment and trial Court ought to have been allowed.

2) The contention of the learned counsel for the plaintiff-respondent to the lower Court vis-à-vis revision application that the order of the lower Court no way requires interference by this Court while sitting in revision within its limited scope that too the application is nothing but a delay tactics to put spokes instead of cross-

examination and for early disposal of the suit, thereby no bonafides and deserves for dismissal of the present revision.

3) Heard and perused the material on record.

4) So far as the year to be corrected from 07.07.2005 to 07.07.2008, it is saying it is a typographical and outcome of inadvertence that could be noticed only at the time of preparation for cross-examination of P.W-1. There is nothing more from the counter in opposing the application of same is not true or is with any explanation regarding any admission from the record of any material aspects in favour of the plaintiff. So far as the other amendment sought is on clarificatory which cannot be permitted at this stage as rightly concluded by the lower Court though the power of the Court is not totally taken away to permit amendment after commencement of trial including by introduction of the proviso to Order VI Rule 17 C.P.C, where it is required to avoid any future complications as held in *J. Yadagiri Reddy V. J. Hemalatha*¹ referring the three Judge bench expression of the Apex Court in *Sajjan Kumar V. Ram Kishan*² also in the discussion about same not came for consideration in the subsequent expression in *Vidyabai V. Padmalatha*³.

¹ 2016(3)ALT 211

² (2005)13 SCC 89

³ (2009)2 SCC 409

5) Having regard to the above, the revision petition is allowed in part only by permitting the correction of the year of 2005 to 2008 in the third paragraph of the written statement and in all other respects, the order of the lower Court holds good. There shall be no order as to costs. Pending miscellaneous petitions, if any, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

26.09.2016

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