

THE HON'BLE SRI JUSTICE A. RAJASHEKER REDDY

CIVIL REVISION PETITION No. 551 of 2016

ORDER:

This Civil Revision Petition is filed, under Article 227 of the Constitution of India, against the order dated 03.12.2015 passed by the II Additional Junior Civil Judge, Kurnool, in I.A.No.690 of 2015 in O.S.No.346 of 2013.

Briefly, the facts of the case are that the respondent herein filed O.S.No.346 of 2013 on the file of the II Additional Junior Civil Judge, Kurnool, against the petitioner herein for recovery of amount on the foot of a promissory note. During pendency of the suit, the respondent filed I.A.No.690 of 2015 under Order VI Rule 17 of CPC seeking amendment of the plaint by replacing the date of execution of the promissory note mistakenly typed as "10.09.2011" in 3rd paragraph of the plaint, with "10.09.2012". The petitioner filed a counter contending that if the amendment as sought for was permitted, it would transform his entire pleadings. After hearing both the parties, the trial Court allowed the said petition on 03.12.2015. Challenging the same, the petitioner filed this civil revision petition.

Learned counsel for the petitioner submits that the amendment was sought by filing the application belatedly and hence, the Court below should not have allowed the same. He also submits that the respondent should have sought for the amendment before commencement of the trial in the suit.

It is to be seen that the amendment sought for is only in respect of the date of execution of the promissory note.

According to the respondent, the date of promissory note was wrongly typed as 10.09.2011 in 3rd paragraph of the plaint only, whereas in other paragraphs it was correctly typed as 10.09.2012, and as it is only a typographical error, it could not be detected. The trial Court allowed the application on the grounds that the cause of action in the suit will not change and it will not cause any prejudice to the petitioner, nor it would require fresh set of evidence, because it is merely the description of the date that is sought to be amended, and that too when the said date was correctly mentioned in other paragraphs of the plaint, no prejudice would be caused to the petitioner. The trial Court, relying on a judgment of the Apex Court in ***Mahila Ramkali Devi and others Vs. Nandram through L.Rs and others in Civil Appeal No.2366 of 2010***, came to a conclusion that a party cannot be refused just relief, merely because of some mistake, negligence, inadvertence or even infraction of rules of procedure, and accordingly, allowed the petition. In view of the same, I do not find any infirmity in the order passed by the trial Court warranting interference of this Court by exercising the power under Article 227 of the Constitution of India.

Accordingly, the Civil Revision Petition is dismissed. 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.

5th February, 2016

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