

HONOURABLE SRI JUSTICE S.RAVI KUMAR

C.R.P.No.1983 OF 2012

Dated 1-6-2016

Between:

The Managing Director, M/s.Nandyal Co-operative
Spinning Mills Limited, Nandyal and others.

..Petitioners.

And:

K.V.Mohan Rao

..Respondent.

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C.R.P.No.1983 OF 2012

ORDER:

This revision is preferred against order dated 9th
February, 2012 in E.A.No.44 of 2010 in E.P.No.2 of 2004 in
O.P.No.167 of 1988.

Revision petitioners herein are the J.Drs. in E.P.No.2 of
2004 in which D.Hr. filed petition for amendment of
E.P.schedule by adding some more properties to the E.P.
schedule. That application was resisted by J.Dr. and trial
court on a consideration of material overruled the objection
of the J.Dr. by relying on a Full Bench Judgment of this court
in *BHOGANADHAM SESHIAH v. BUDHI
VEERABHADRAYYA (DIED) AND OTHERS* ([\[1\]](#)) and
Supreme Court decision in *PIRGONDA HONGONDA PATIL
v. KALGONDA SHIDGONDA PATIL AND OTHERS* ([\[2\]](#)) and
permitted amendment. Questioning the said order, present
revision is preferred by J.Dr.

Heard both sides.

Advocate for revision petitioners submitted that lower
court failed to consider objections of the J.Dr. He submitted
that award passed by sole arbitrator is not binding on the
Government, as such, impleading the Government
properties to the E.P. schedule is unwarranted, illegal and

without jurisdiction.

On the other hand, advocate for respondent/D.Hr. submitted that lower court has rightly permitted to include some more properties to the E.P. schedule as amendment is permissible as per Full Court Judgment of this Court in *BHOGANADHAM SESHIAH v. BUDHI VEERABHADRAYYA (DIED) AND OTHERS*, (1st cited), and that there is no jurisdictional error in the order of the trial court and the revision is devoid of merits.

Now the point that would arise for my consideration in this revision is whether the order of court below is legal, correct and proper?

POINT:

The main objection of the revision petitioners is adding some more property by way of amendment is not permissible and the lower court failed to consider objections of the J.Dr. in a correct manner.

Learned Government Pleader appearing for revision petitioners relied on three judgments in *THANKAMMA AND ANR. v. JOHN. GOVT. SERVANT AND ORS.* (^[3]), *G.LAXMAIAH v. STATE BANK OF HYDERABAD, MADANAPURAM BRANCH AND ANOTHER* (^[4]), and *RADHEY SHYAM GUPTA v. PUNJAB NATIONAL BANK AND ANR.* (^[5]).

In *THANKAMMA AND ANR. v. JOHN. GOVT. SERVANT AND ORS.* (3rd cited), the point involved is in respect of identity of suit property. It is held as follows:

“Once identity of the property is established at the trial stage, that would enure to all the subsequent stages of the litigation, unless in extreme cases, where the nature of the property has undergone a change requiring fresh identification, the change in the nature of the property being caused not due to any act of the judgment debtors or persons claiming under them.”

In *G.LAXMAIAH v. STATE BANK OF HYDERABAD, MADANAPURAM BRANCH AND ANOTHER* (4th cited).

The issue involved was on the power of executing court to grant installment decree.

In *RADHEY SHYAM GUPTA v. PUNJAB NATIONAL BANK AND ANR.* (5th cited), Honourable Supreme Court held that executing court cannot alter the manner of recovery of decretal amount. In all these three decisions, the issue is not on the point of adding some more properties to the E.P. schedule by way of amendment.

On the other hand, advocate for respondent/D.Hr. submitted that in *BHOGANADHAM SESHIAH v. BUDHI VEERABHADRAYYA (DIED) AND OTHERS*, (1st cited), a Full Bench of this Court held that amendment to execution petition is permissible even after expiry of limitation. He further submitted that same view was also expressed by Honourable Supreme Court in *PIRGONDA HONGONDA PATIL v. KALGONDA SHIDGONDA PATIL AND OTHERS* (2nd cited).

I have perused the above two decisions relied on by first respondent/D.Hr. and impugned order of the trial court. The very same decisions were also cited before the trial judge and relying on these two decisions, trial court permitted the D.Hr. to add some more properties to the E.P. schedule properties by way of amendment. In view of law laid down by this court in *BHOGANADHAM SESHIAH v. BUDHI VEERABHADRAYYA (DIED) AND OTHERS*, (1st cited), objection of revision petitioners for including of some more properties to E.P.schedule by way of amendment is not at all tenable and the trial court rightly allowed the application and permitted inclusion of some more properties. Trial court has not committed any jurisdictional error or material irregularity in allowing the application of D.Hr. and that there are no grounds to interfere with the same.

For these reasons, this revision is dismissed as devoid of merits. No costs.

As a sequel to the disposal of this revision, Miscellaneous Petitions, if any, pending, shall stand

dismissed.

JUSTICE S.RAVI
KUMAR

Dated 1-6-2016.

Dvs.

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C.R.P.No.1983 OF 2012

Dated 1-6-2016

Dvs

[\[1\]](#) A.I.R.1972 A.P.134

[\[2\]](#) AIR 1957 SC 363 (1)

[3] AIR 2006 KERALA 237

[\[4\]](#) 2005 (3) ALT 539

[5] AIR 2009 SC 930.

