

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

CIVIL REVISION PETITION No.5265 of 2015

ORDER :

The plaintiff in O.S. No.102 of 2011 for the relief of permanent prohibitory injunction maintained against the defendants 1 and 2, filed impugned I.A. No.80 of 2015 before the trial Court under Order VI Rule 17 C.P.C to correct the mis-description of the survey number 276 as if 545/1 and the same was ended in dismissal by the lower Court with observation that the suit is at the stage of arguments at fag end and now the plaintiff sought for change of the survey number and it is belated with no bonafides. A perusal of the plaint copy shows the plaint schedule description with reference to plan as if in S.No.545/1 an extent of 0.25 cents and boundary descriptions of four sides given.

2) The amendment now sought for is to correct the wrong mention of S.No.545/1 with correct number 276 and there is no change of boundaries that sought. In fact as per Order VII Rule 3 the subject matter of the lis in relation to immovable property, the plaint schedule contain a description of the property sufficient to identify either by boundaries or numbers in record of settlement or survey and plaint shall specify such boundaries or numbers. It is the settled law pursuant to the provision that even in the case of mis-description or wring mention of survey

number, the boundaries will prevail over survey number. Once there is no change of boundaries sought but for change of mistaken mention of survey number, when that no way changes identity of the property within the boundaries that will prevail, trial Court should have been allowed the application for amendment to correct the mistake as it will not change nature of the suit claim or to the prejudice of defendants/respondents. The respondents even served in the revision, failed to attend. In view of the above, the order of the lower Court is unsustainable.

3) In the result, the revision is allowed by setting aside the order dated 16.09.2015 in I.A. No.80 of 2015 in O.S. No.102 of 2011 on the file of Junior Civil Judge, Kamalapuram by permitting the amendment of only the survey number to correct from 545/1 to 276.

4) Miscellaneous petitions, if any pending, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

22.01.2016
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