

**HON'BLE SRI JUSTICE A. SHANKAR NARAYANA**

**CIVIL REVISION PETITION No.2630 OF 2016**

**ORDER:**

It appears that the petitioners are defendants in O.S. No.74 of 2000, on the file of the Senior Civil Judge, Nizamabad, which was filed seeking relief of partition of properties and allotment of shares. The said suit was decreed. Therefore, they filed appeal suit challenging the preliminary decree before the District Judge, Nizamabad. Since there was delay of 166 days in filing the appeal, an application in I.A. No.1519 of 2014 was filed under Section 5 of the Limitation Act.

2. It appears the petitioners, in an attempt to introduce plausible reasons so as to make out a sufficient cause, made yet another application in I.A. No.2462 of 2015 for amending the affidavit contents by way of insertion of certain paragraphs after paragraph No.2.

3. The Court below extracting the provisions of Order VI Rule 17 of CPC, dismissed the application observing that the amendment was intended to explain the delay, more particularly, when provisions of Order VI, Rule 17 of CPC bring within its fold only pleadings to be amended. The said order is under challenge in the instant revision petition.

4. Heard Sri Mohd. Rahail Ahmed, learned counsel for the petitioner.

5. Certainly, provisions of Order VI, Rule 17 of CPC become inapplicable for amending the averments in an affidavit, as the affidavit averments cannot be construed as pleadings falling within the ambit of Order VI, Rule 17 of CPC. Instead, the petitioners ought to have filed better affidavit with the permission of the Court. Instead of doing so, they moved application under Order VI, Rule 17 of CPC. There is absolutely no legal infirmity in the order passed by the Court below. Hence, the instant revision petition is dismissed at the admission stage. However, in case, the petitioners intend to file better affidavit along with an application seeking permission of the Court, the Court below is at liberty to dispose of the same in accordance with law. There shall be no order as to costs.

As a sequel thereto, miscellaneous petitions, if any, pending in the revision, stand closed.

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**A. SHANKAR NARAYANA, J**

**June 10, 2016.**

**Note:** Furnish certified copy  
of order by 14-06-2016.  
(BO.) Mgr