

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

C.R.P.No.3496 of 2016

ORDER:

This Revision is filed challenging the order dt.06.06.2016 in I.A.No.208 of 2016 in O.S.No.36 of 2010 of the Junior Civil Judge, Chintalapudi, West Godavari District.

2. Petitioner herein is the plaintiff in the above suit. He filed the suit for declaration of title and recovery of possession from the respondent in respect of an extent of Ac.0-26 cents of land in R.S.No.60/8 of Epigunta Village, T.Narasapuram Mandal, Chintalapudi Sub-registry, West Godavari District, within the specified boundaries.

3. During the course of trial, after the petitioner's evidence was closed and the defendants' evidence commenced, when the matter was coming for cross-examination of DW1, petitioner filed I.A.No.208 of 2014 to amend the plaint by changing the boundaries on the south and north side to the plaint schedule and for adding para 5(A) in the plaint.

4. The Court below dismissed the said application on the ground that allowing application would change the nature of the entire suit and the application was filed at the fag end of the trial and it is not permissible to allow the said application.

5. Assailing the same, this Revision is filed.

6. Counsel for the petitioner contends that the order passed by the Court below is erroneous and it had failed to exercise the jurisdiction vested in it.

7. Admittedly the application for amendment of the plaint was

filed when the matter was coming up for cross-examination of DW1. In the affidavit filed in support of the application for amendment, it is not stated by the petitioner that in spite of due diligence, he could not seek amendment of the plaint before the trial commenced. Therefore, the proviso to Order VI Rule 17 CPC comes in the way of allowing the application for amendment.

8. So, I do not find any error of jurisdiction in the order passed by the Court below dismissing the said application.

9. Accordingly, this Civil Revision Petition is dismissed. There shall be no order as to costs.

10. Consequently, miscellaneous petitions pending, if any, shall stand closed.

M.S.RAMACHANDRA RAO, J

29th July, 2016
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