

**HON'BLE SRI JUSTICE A.RAJASHEKER REDDY**

**CIVIL REVISION PETITION No.702 OF 2017**

**ORDER:**

This Civil Revision Petition is filed aggrieved by the order dated 06.01.2017 in I.A.No.459 of 2016 in O.S.No.78 of 2005 wherein the Court below dismissed the application filed by the petitioners under Order XIV Rule 15 of CPC for framing the following additional issues.

“1. Whether the defendants are in possession of the suit property as tenants of the plaintiff.

2. Whether Nadipalli Ramadevi, daughter of late Narayana Rao, who is Class-I legal heir of the property is the necessary party to the suit.”

The case of the petitioners is that petitioners are defendants in O.S.No.78 of 2005 filed by the respondents/plaintiffs herein for declaration of title and recovery of possession and that they have filed written statement on 15.12.2005. But erroneously the additional issues were not framed by the Court below and the same was noticed only when the advocate informed the same to them when one DW2 was to be examined. As such they have filed application for framing of additional issues. But the Court below without considering the same, erroneously rejected the same.

Learned counsel for the petitioners submits that though there is delay in filing of application but framing of additional issues are very much necessary for proper adjudication of *lis* in the suit as respondents/plaintiffs alleged in the plaint that the defendants are in possession as tenants basing on written note. But the same is specifically denied in the written statement filed by the petitioners.

Further, the defendants have alleged that one Ramadevi, is also having share in the suit properties. As such she is also necessary party in the suit. Therefore, both the additional issues should have been framed, but the Court below without considering the said fact dismissed the application which is erroneous.

It is to be seen that suit is of the year 2005 and the written statement is also filed on 15.12.2005. Plaintiffs evidence was also closed and the petitioners also examined as DW 1. If petitioners are serious enough, they should have filed the application immediately after framing of issues. Even the reasons stated in the affidavit filed in support of the applications are not satisfactory for filing of the application belatedly, after 12 years. Moreso, the said Ramadevi has not approached the court by filing implead petition, though the suit is filed in the year 2005.

In view of the above, I do not see any reason to interfere with the order passed by the Court below by exercising power under Article 227 of Constitution of India.

Accordingly, the Civil Revision Petition is disposed of. No costs.

As a sequel thereto, miscellaneous petitions, if any, pending in this petition, shall stand closed.

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**A.RAJASHEKER REDDY, J**

02.06.2017

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