

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY
CIVIL REVISION PETITION No.3694 of 2017

ORDER:

This revision is filed against the order dated 12-07-2017 in I.A.No.81 of 2017 in O.S.No.7 of 2010, wherein the Court below dismissed the application filed by the petitioner under Order 6 rule 17 read with Section 151 C.P.C. for making necessary amendments in the plaint.

Learned counsel for the petitioner says that amendment is very much necessary for proper adjudication of *lis* in the suit as respondents have set-up a plea of purchase through agreement of sale dated 12-07-1969 and also sale deed, which is executed in the year 1973 i.e. subsequent to the sale executed in favour of the petitioner by his father in the year 1970 and as such, the Court below erroneously dismissed the application. He submits that for effective adjudication, amendment is very much necessary and mere delay in filing application for amendment cannot be a ground for rejecting the same by relying on the judgment of **Surender Kumar Sharma v. Makhan Singh**¹.

In this case, the Court below dismissed the application filed by the petitioner on the ground that from the date of filing of written statement, the amendment sought to be allowed is barred by limitation and also says that suit was filed in the year 2010 and the plaintiffs evidence was closed and petition was filed at the time of cross-examination of DW.1 after trial commenced. The Court below also found that the petitioner has

¹ (2009) 10 Supreme Court Cases 626

not shown sufficient ground to show that inspite of due diligence, she could not seek for amendment before commencement of trial and the Court below found that the petitioner has not given proper reason for not filing the application at the earliest stage. Though learned counsel for the petitioner argued that only at the time of cross-examination of DW.1, the petitioner is aware of execution of sale deed. But in the affidavit filed in I.A.No.81 of 2017, it is stated that after filing written statement in O.S.No.7 of 2010 the petitioner became aware of agreement of sale, dated 12-07-1969 and registered sale deed dated 03-07-1973 and the contents of written statement also reflects the same and it is also stated by learned counsel for the petitioner that written statement is filed in the year 2010. No plausible explanation is given for filing amendment petition belatedly. More so, the Court below found that it is barred by limitation on admitted case. The judgment cited by the petitioner's counsel has no application to the facts of the present case.

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

Accordingly, the revision is dismissed. As a sequel to the disposal of the revision, miscellaneous petitions, if any, pending shall stand closed.

A.RAJASHEKER REDDY,J

28-07-2017
Nvl



