

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

C.R.P.No.4336 of 2017

ORDER:

Heard the learned counsel for the petitioner.

2. This Revision Petition is filed challenging the order dt.28-07-2017 in I.A.No.156 of 2017 in O.S.No.231 of 2011 of the II Additional Junior Civil Judge, Tadepalligudem.

3. The petitioner is the defendant in the said suit. The suit was initially filed for an injunction restraining the petitioner and the 2nd respondent from interfering with the possession and enjoyment of the plaint schedule property. Subsequently, on coming to know that deed of revocation dt.15-06-2012 has been executed revoking settlement deed dt.26-08-2006 executed in his favour, the 1st respondent/plaintiff filed I.A.No.156 of 2017 under Order 6 Rule 17 CPC seeking amendment of the plaint for incorporating the said event as well as for seeking relief of declaration of title also in addition to the relief of injunction sought for earlier.

4. Counter affidavit was filed by the petitioner opposing the same.

5. The Court below allowed it on 28-07-2017 stating that the trial in the suit has not yet commenced and the amendment is necessary for determining the real questions in controversy between

the parties and otherwise prejudice would be caused to the 1st respondent.

6. Assailing the same, this Revision Petition is filed.

7. Though the learned counsel for the petitioner sought to contend that the application for amendment of the plaint ought not to have been allowed since the II Additional Junior Civil Judge's Court would cease to have jurisdiction, if such amendment is allowed, I am of the opinion that the said objection is not valid. The Court below can allow the amendment and if it appears that on account of allowing the amendment, it ceased to have jurisdiction, it can then return the plaint for presentation to the proper Court. It cannot be said that the Court cannot therefore order the application for amendment at all.

8. Accordingly, the Civil Revision Petition is dismissed at the admission stage. No costs.

9. As a sequel, the miscellaneous petitions pending, if any, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 06-10-2017
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