

HON'BLE DR. JUSTICE B. SIVA SANKARA RAO

CIVIL REVISION PETITION Nos.5078 & 5229 of 2017

COMMON ORDER:

Heard learned counsel for the petitioners/plaintiffs and before ordering notice to the respondent/defendant, impugning the dismissal order in IA.No.354 of 2017 dated 07.09.2017 of dismissing the application filed by the plaintiffs for reopening the matter after closure of evidence and after the arguments heard and reserved.

When coming for arguments and against dismissal of the application in I.A.No.364/2017 dated 07.09.2017 of the dismissal of the application to amend plaint by incorporation of specific extents of survey numbers of the property describing in the plaint schedule allegedly stated. A perusal of the dismissal order of the reopen application justifies from dismissal of the application from amendment.

So far as correctness of the dismissal of the application for amendment concerned, the application for amendment sought is with cryptic affidavit averments in Para 2 saying plaintiff came to know that schedule property mentioned only survey number and forgotten to mention extents of each survey number inadvertently. The plaintiff cannot be so arrogant for the fact of plaint contents the verification of the facts mentioned or read over and explained are true and correct. Once that affirmation is there in filing the plaint, they cannot pretend lack of knowledge of the contents much less to say they came to know only at the stage of matter coming for arguments. Further more the affidavit or even the prayer in the petition did not mention what is amendment clearly

sought whether it is the plaint schedule or body of the plaint in so and so particular Para in relation to which survey number and which extent and to incorporate which page or Para as the case may be.

Having regard to the above, the dismissal of the application by the lower Court no way requires interference, but for to say this will not operate as resjudicata for any further remedy if available.

Accordingly and in the result, the Civil Revision Petitions are dismissed. Pending miscellaneous petitions, if any, shall stand closed.

Date: 06.10.2017
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JUSTICE Dr. B.SIVA SANKARA RAO

