

HONOURABLE SRI JUSTICE U.DURGA PRASAD RAO

Civil Revision Petition No.1988 of 2017

ORDER:

This Civil Revision Petition is filed by the petitioner/plaintiff aggrieved by the order dated 23.02.2017 in I.A.No.69 of 2017 in O.S.No.450 of 2015 on the file of IV Additional Junior Civil Judge, Kadapa, whereby and whereunder the learned Judge dismissed the petition filed by the plaintiff under Order VI Rule 17 r/w Sec.151 of CPC for amendment of the plaint.

2) I.A.No.69 of 2017 was filed by the plaintiff seeking amendment of the pleadings. In original pleadings, it appears, he mentioned that from the income derived from the company, on 05.01.1985 under two registered sale deeds, they purchased land measuring Ac.0-49 cents each in Sy.No.249 in the village fields of Chinnachowk of Kadapa town for the valid consideration of Rs.24,500/- each from the original owners. In the place of the aforesaid pleadings, the petitioner/plaintiff wanted to incorporate that he purchased the aforesaid properties even prior to the incorporation of the company for the purpose of the road. The said petition was dismissed by the trial Court after enquiry on the observation that the petition was belated one and the proposed amendment will not result in any injustice to either party if it is allowed or not, to settle the real controversy involved in the suit.

3) Heard arguments of Sri G.Ramachandra Reddy, learned counsel for petitioner and Sri V.R.Reddy Kovvuri, learned counsel for respondent No.5.

4) The submission of learned counsel for petitioner is that M/s.Rayalaseema Steel Re-rolling Mills firm was incorporated under Indian Partnership Act, 1932 on 11.05.1984 and later it was converted into a limited company w.e.f. 27.02.1985. In between, the petition mentioned properties were purchased on 05.01.1985. Therefore, it is clear that the properties were purchased prior to the conversion of the partnership firm into a limited company but by mistake in the plaint, it was mentioned as if the properties were purchased by the company. It was only a typographical mistake and same could be rectified by way of amendment. He thus prayed to allow the CRP by setting aside the order of the lower Court.

5) Learned counsel for respondent opposed the CRP.

6) A perusal of the copies of the partnership deed of M/s. Rayalaseema Steel Re-rolling Mills firm shows it was incorporated on 11.05.1984 and later it was converted into a limited company w.e.f. 27.02.1985 as can be seen from the certificate of incorporation, copy of which is filed. Admittedly the properties were purchased on 05.01.1985. Therefore, *prima facie*, the submission of learned counsel for petitioner/plaintiff appears to be true. Ofcourse, these facts have to be established during the trial. As the matter stands, the submission of the petitioner that the properties were purchased during the continuation of the partnership firm appears to be true. The trial Court dismissed the petition on the observation that the said fact has no effect on the real controversy. The said aspect has to be decided only during the trial and not now.

7) Accordingly, this C.R.P is allowed by setting aside the impugned order dated 23.02.2017 in I.A.No.69 of 2017 in O.S.No.450 of 2015 on the file of IV Additional Junior Civil Judge, Kadapa. Consequently, I.A.No.69/2017 is allowed on the condition of petitioner/plaintiff paying costs of Rs.1000/- (Rupees one thousand only) to respondents within two weeks from the date of this order. The trial Court shall permit the petitioner/plaintiff to amend the plaint as prayed for. No costs.

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

Date: 28.07.2017
scs



U. DURGA PRASAD RAO, J