

HON'BLE SRI JUSTICE CHALLA KODANDA RAM

CIVIL REVISION PETITION No.5679 of 2012

ORDER:

The order dated 27.02.2012 in I.A.No.26 of 2012 in O.S.No.83 of 2007, passed by the learned Junior Civil Judge, Gajapathinagaram, is challenged before this Court, on the ground that the amendment which was sought in I.A.No.161 of 2009 is different from the one which has been recorded in the neat copy of the plaint and that the Court below, in spite of bringing the said fact to its notice, had failed to consider the same.

The petitioner further contended that the Court below ought to have rejected the neat copy of the plaint, as the same is contrary to the amendment, which was sought in I.A. No. 161 of 2009 in O.S.No.83 of 2007, as the amendment, which was sought by the respondents herein is as follows:

“III. I submit that after para 3(3) a fresh paragraph is to be introduced as follows by deleting the words “by means of registered sale deed about 10 years back and the said Guruvulu purchased the same in the name of his wife per her benefit and family and insert that my mother acquired the plaint schedule land which was devolved on my mother from her ancestors.”

Whereas, in the fair copy of the plaint, the amendment has been recorded as follows:

“The said Tupakula Seema @ Seenamma acquired the land through ancestors comprised in the Survey No.54/4 and 54/10 in an extent of Ac.1-10 cents. My mother acquired the plaint schedule land which was devolved on our mother from her ancestors. The said Ttupakula Guruvulu also got ancestor thatched house situated Pedakada village and both Guruvulu and Seema celebrated the marriage of plaintiffs No.1 and as well as defendant. The marriages of the plaintiffs 2 to 4 were celebrated by their mother as Guruvulu died prior to their marriage”.

Heard the learned counsel for the petitioner and the learned counsel for the respondents.

Having considered the respective submissions, a bear perusal of the record leaves no manner of doubt that in substance, the amendment, which has been typed in the neat copy does not, in any

manner, alter or vary the substance of the amendment, which has been sought originally. The crucial words in the amendment petition, which was allowed in the I.A., are *“My mother acquired the plaint schedule land which was devolved on my mother from her ancestors”*. In other words, what the plaintiff desired to convey is that the plaintiff's mother acquired the plaint schedule land from her ancestors. The words *‘which was devolved on my mother’* surpasses in the fair copy to reflect the corrected position, the sentence has been shortened by adding that *“The said Tupakula Seema @ Seenamma acquired the land through ancestors comprised in the Survey No.54/4 and 54/10 in an extent of AC.1-10 cents. My mother acquired the plaint schedule land which was devolved on our mother from her ancestors”*. Further, it may be noted that what the petitioner sought before the Court below is rejection of the plaint. Though such application was made under Order XIX Rule 1 of C.P.C., the court below considered the prayer of the petitioner as rejection of the plaint of the petitioner, what the petitioner sought is that there is a variation in the neat copy filed, it shall be inconformity with the amendment allowed. Though the other reason given by the learned trial Court Judge may not be sustainable, but, in substance, there being no difference in the amendment, which was allowed with the neat copy, there is no necessity for this court to interfere with the order of the Court below.

In the result, the Civil Revision Petition is dismissed.

Miscellaneous Petitions, if any pending, in this Civil Revision Petition shall stand closed. There shall be no order as to costs.

CHALLA KODANDA RAM, J

Date:12.10.2017.

Note: Issue C.C. forthwith.

B/o
Ssv