

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

C.R.P.No.2577 of 2012

ORDER:

The defendants in O.S.No.172 of 2010 on the file of the Court of Senior Civil Judge, Adoni, Kurnool district are the petitioners in the present revision filed under Article 227 of the Constitution of India.

2. This revision calls in question the order dated 9.4.2012 passed by the said Court in I.A.No.1381 of 2012. By virtue of the said order, the learned Senior Civil Judge, allowed I.A.No.1381 of 2012 filed by the plaintiff/respondent herein under the provisions of Order VI Rule 17 of CPC seeking amendment of plaint.

3. Heard Sri B.Vijayabhaskar, learned counsel for the petitioners and Sri K.Mahadeva, learned counsel for the respondent and perused the material available before the Court.

4. The respondent herein instituted the suit for recovery of amount on the foot of a promissory note. In the said suit, after filing of chief affidavit, the plaintiff filed the instant application, praying for amendment of date on which alleged borrowal took place as 4.8.2005 in place of 8.4.2005. The said application was resisted by the defendants/petitioners herein by way of filing counter. The learned Judge vide order under challenge, allowed the said application.

5. According to the learned counsel for the petitioners, the questioned order is erroneous and contrary to law and is not in consonance with Order VI Rule 17 of CPC. It is the further submission of the learned counsel that right from the date of issuance of suit notice, till the date of filing chief affidavit, the respondent herein mentioned the date of promissory note as

8.4.2005, as such, the proposed amendment which changes the nature of suit and cause of action is impermissible and the Court below grossly erred in allowing the application.

6. On the other hand, it is the submission of the learned counsel for the respondent that the impugned order does not suffer from any jurisdictional error nor there is any infirmity in the said order, as such, the same is not amenable for any correction by this Court under Article 227 of the Constitution of India.

7. There is absolutely no dispute with regard to reality that the suit promissory note date is 4.8.2005. The only objection of the defendants/petitioners herein is that in the event of proposed amendment being allowed, same would completely alter the nature of suit and the cause of action.

8. A perusal of the order under challenge shows that the learned Senior Civil Judge in a meticulous and elaborate manner considered all the aspects including the date of filing of suit and the date indicated in the promissory note and the impact of relief sought on the nature of suit and eventually came to a conclusion that the proposed amendment would neither change the cause of action nor would have any effect on the aspect of limitation and the same would not cause any prejudice to the defendants/petitioners herein. The Court below also observed that the suit was instituted within the period of limitation.

9. The contention of the learned counsel for the petitioners herein that at the time of filing of present application, period of three years had expired, as such, the application cannot be ordered, in the considered opinion of this Court, does not merit any consideration. It is a settled and

well established principle of law that unless the order impugned suffers from jurisdictional error or patent perversity, the invocation of jurisdiction of this Court under Article 227 of the Constitution of India is impermissible.

10. Accordingly, the revision is dismissed. As a sequel, the miscellaneous petitions, if any, shall stand closed. There shall be no order as to costs.

Date: 3.8.2017
DA

A.V.SESHA SAI, J



THE HON'BLE SRI JUSTICE A.V.SESHA SAI

C.R.P.No.2577 of 2012



3.8.2017

DA