

HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

CIVIL REVISION PETITION No.2232 of 2017

ORDER:

Heard learned counsel for the petitioner.

Petitioner herein is the plaintiff in O.S.No.15 of 2010 on the file of the Senior Civil Judge, Markapur, filed for the relief of declaration of absolute title in respect of the plaint schedule site and consequential relief of permanent injunction. The said suit was filed based on the agreement of sale, dated 29.03.1988. The respondents herein filed a written statement followed by an additional written statement. At that stage, the petitioner filed I.A.No.22 of 2017 to amend the plaint by including the word 'possessory' before the word 'title' in the last line of para '3' and substitute the word 'possessory' in the place of the word 'absolute' before the word 'title' in the prayer portion of para 10(a). In the affidavit filed in support of the application, the petitioner stated that since there was no registered sale deed in his favour, he was advised by the present Advocate to get the plaint amended seeking declaration of his possessory title both in the copy of the plaint as well as in the prayer portion.

The respondents filed a counter stating that there is no necessity to amend the plaint at this stage and number of amendments were already taken in the plaint after filing the suit;

that in order to drag on the matter, the petitioner has been filing the applications and that since the petitioner himself stated in his affidavit that he has been in exclusive possession and enjoyment of the suit schedule site, there is no need for allowing the application.

The trial Court dismissed the application with the following observations:

“The petitioner is claiming title basing on agreement of sale dated 29.03.1988. According to him, he purchased the suit property under agreement of sale from K.Pitchireddy. K.Pitchireddy is the father of respondent Nos.1 and 2. The respondents in their written statement denied the agreement of sale. According to them, the agreement of sale is forged one. The petitioner would like to incorporate the word ‘possessory’ before the word ‘title’ in the last line of plaint para No.3 and to substitute the word ‘possessory’ in the place of word ‘absolute’ before ‘title’ in prayer portion para 10 (a) of the plaint. The petitioner is trying to establish his title by long possession. The petitioner is claiming his possession over the suit property by virtue of agreement of sale dated 29.03.1988. The possession under agreement of sale can be termed as permissive possession. Permissive possession howsoever long, cannot confer title over the property. In law, adverse possession alone confer title over the property. In the present case, the petitioner cannot claim adverse possession because he is claiming possession and title under agreement of sale. Therefore, I am of considered opinion that the petitioner

is not entitled for the relief as prayed for. The point is answered accordingly.”

I am in agreement with the findings recorded by the trial Court in the order impugned and no ground exists for interfering with the same.

The civil revision petition is accordingly dismissed at the stage of admission.

Miscellaneous petitions, if any, pending in this revision shall stand closed.

A.RAMALINGESWARA RAO,J

Dt:16.06.2017

kdl

