

HON' BLE SRI JUSTICE C. PRAVEEN KUMAR

CIVIL REVISION PETITION No. 2399 of 2017

ORDER:

1) Assailing the order dated 20.02.2017, passed in I.A.No.853 of 2016 in O.S.No.310 of 2010 on the file of the Principal Junior Civil Judge, Chittoor, wherein an application filed under Section 151 of C.P.C. to reject the plaint is dismissed, the present Civil Revision Petition is filed under Article 227 of the Constitution of India.

2) Respondent herein filed O.S.No.310 of 2010, seeking perpetual injunction restraining the petitioner herein from interfering with his possession and enjoyment of the plaint schedule property. The defendant/petitioner herein filed I.A.No.853 of 2016 seeking rejection of the plaint stating that the amendment was not carried out by the plaintiff in the plaint in accordance with the proposed amendment mentioned in I.A.No.363 of 2014, hence the plaint is a defective one and is liable to be rejected.

3) A counter came to be filed by the respondent/plaintiff stating that since the office copy of plaint does not reflect the actual contents of the plaint filed in the Court, some mistakes arose in preparing the neat copy of the plaint and there is no intention or ill motive. It was also stated that a memo was also filed to return the amended copy, to carry out the amendment as

permitted by the High Court and the same is pending consideration. It was also stated that since the suit is posted for filing additional written statement, no prejudice will be caused to the defendant, if the plaintiff is permitted to file a neat copy.

4) After considering the rival submissions, the trial Court dismissed the petition. Challenging the same, the present Civil Revision Petition is filed.

5) It is to be noted here that earlier the respondent herein filed C.R.P No.208 of 2015 challenging the order dated 12.11.2014 passed in I.A.No.363 of 2014, to amend the relief of declaration of title to the plaint schedule property and to make consequential amendments to the plaint.

6) By an order dated 26.06.2015, this Court after considering the matter in detail, rejected the amendment with regard to declaration, in addition to the relief of injunction. In so far as the other amendment is concerned, this Court held that "having regard to the observations made by the trial Court, which has to be submitted in the place of para 3, being mere elaboration of facts already set out therein, found fault with the Court below holding that it is not right in rejecting the amendment in this regard".

7) Subsequent to the order passed by this Court, the plaintiff filed amended copy of plaint, which reads as under:

“ The plaintiff humbly submits that one D..Pakeer Reddy is father of Ramanujulu Reddy. The said Pakeer Reddy purchased the plaint schedule mentioned properties and other properties in Court sale in OEP No.478 of 1983 in O.S.No.1235 of 1980 on the file of Principal Junior Civil Judge, Chittoor where under the father of the 1st defendant Nadipanna @Chengalrayulu Naidu was the Judgment Debtor. The said Pakeer Reddy was in exclusive possession and enjoyment of plaint schedule mentioned property and other properties and thereafter his sons Ramanujam Reddy and his son Mohan Reddy were in possession of the same. In the said manner my vendors got right, title and possession over the plaint schedule mentioned property.”

8) Learned counsel for the petitioner mainly submits that this amendment is totally contrary to the order passed in the earlier C.R.P. and also the contents of the application filed by them seeking amendment. According to him, by virtue of this amendment, earlier contents of paras 3 and 4 are totally excluded, which was not permitted by this Court. It is to be noted here that major portions of the paragraphs more particularly the sentences written with hand were totally excluded, in the amended plaint.

9) If the contents of I.A.No.363 of 2014 are taken into consideration, along with the contents of the plaint, it only states that few sentences are to be added in the beginning of the para 3 of the plaint by deleting the words and sentences “plaint schedule

mentioned property is ancestral property of Ramanujam Reddy and his son Mohan Reddy". But the subsequent portion of the plaint with regard to the issuance of pattadar passbook vide patta pass book No.CTR 11608 in favour of Ramanujam Reddy and Mohan Reddy, which were filed along with the plaint and the sentence of "vendor grand father Pakeer Reddy purchased the property in the Court auction in O.E.P.No.478 of 1983 in O.S.No.1235 of 1980 in PDM Court, Chittoor" was deleted. Similarly in paragraph 4, the sentences written with manuscript viz. that the plaintiff has 1/4th share as well remaining 3/4th share are 1) L.Guravaiah Naidu, 2) L.Radhakrishna Naidu and 3) L.Sankar Naidu are omitted.

10) The order of this Court was only to the extent of the relief claimed with regard to the description of the property, which was amended, but never intended to delete the sentences which were already shown in the original plaint, more particularly, in paragraph 3.

11) Though learned counsel for the respondent would contend that since the impugned order is a common order passed in I.A and Memo, and two CRPs ought to have been filed i.e. one against I.A and another against Memo, and since no CRP is filed against the order in Memo, the order under challenge warrants no interference. It is to be noted here that Memo was filed by the plaintiff and not by the defendant. Therefore, filing of revision against an order passed in the Memo, whereby the plaintiff was

permitted to file an amended neat copy of the plaint, would not arise.

12) Having regard to the above, Civil Revision Petition is allowed directing the trial Court to take into consideration the original plaint as well as the portion of the amendment, which has been allowed by the High Court, except to the extent of deleting the first sentence in para 3 of the original plaint and consequently proceed with the suit and dispose of the same at the earliest.

13) There shall be no order as to costs. As a sequel thereto, Miscellaneous Petitions pending if any, shall stand closed.

18.08.2017
gkv/ kvrm

JUSTICE C. PRAVEEN KUMAR

