

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

CIVIL REVISION PETITION No.4068 of 2017

18.08.2017

Between:

Penta Sadhu Rao

..Petitioners

and

Penta Ramu and others

..Respondents

Counsel for the petitioner: Mr.K.Chidambaram

Counsel for the respondents: None appeared

The Court made the following:



ORDER:

This civil revision petition arises out of order, dated 26.06.2017, in I.A.No.1003 of 2017 in O.S.No.119 of 2009 on the file of the Principal District Judge, Visakhapatnam.

2. I have heard Mr.K.Chidambaram, learned counsel for the petitioner, and perused the record.

3. The petitioner filed the aforementioned suit for partition and separate possession of 1/3rd share in the suit schedule properties. Respondent Nos.4 and 5 were impleaded as defendant Nos.4 and 5 and they were described as the cultivating tenants. At the stage of recording the evidence of the respondents/defendants, the petitioner filed the aforementioned I.A. seeking permission to amend the plaint in order to incorporate the pleadings and prayer for eviction of respondent Nos. 4 and 5. This application was dismissed by the Court below by observing that it was wholly unnecessary for the petitioner to seek amendment as prayer(a) sought in paragraph VI of the plaint itself is sufficient to recover possession from respondent Nos.4 and 5.

4. At the hearing, the learned counsel for the petitioner has submitted that in order to have better clarity and praying specific relief of eviction, the petitioner was advised to seek amendment of the plaint.

5. The Court below extracted paragraph VI(a) of the plaint, which pertains to the relief portion. This part of the plaint reads as under:

“a) Direct the defendants 1 to 3 for partitioning the schedule property into three equal shares which are now in the possession of defendants 4 and 5 his cultivating tenants and deliver one such 1/3rd share to the plaintiff and remaining two shares to the defendants 1, 2 and 3;”

As rightly observed by the Court below, the petitioner sought for the relief of partition of the suit schedule properties and delivery of 1/3rd share from the possession of respondent Nos.4 and 5 shown as the cultivating tenants. In the light of this prayer, further amendment of the plaint is not necessary. In this view of the matter, I do not find any jurisdictional error in the order of the Court below.

6. The Civil Revision Petition is, accordingly, dismissed.

7. As a sequel to dismissal of the C.R.P., C.R.P.M.P.No.5363 of 2017 filed by the petitioner for interim relief shall stand dismissed as infructuous.

C.V.NAGARJUNA REDDY, J

18th August, 2017
GHN

