

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CIVIL REVISION PETITION No.2965 of 2017

ORDER:

The present Civil Revision Petition, under Article 227 of the Constitution of India, came to be filed assailing the order dated 01.05.2017 passed in I.A.No.1 of 2017 in RCC No.1 of 2016 by the Principal Junior Civil Judge, Tirupathi, whereby the application filed by the petitioners for amendment of the schedule property mentioned in RCC No.1 of 2016, was dismissed.

The facts leading to filing of the present revision are as follows:

The petitioner is the second plaintiff in RCC No.1 of 2016 filed against the respondent for her eviction from the petition schedule property. After verification of the petition in RCC, petitioner came to know that a typographical mistake crept in the schedule mentioned in the petition. Therefore, the petitioner filed the impugned application under Order VI Rule 17 of the Code of Civil Procedure, seeking leave of the Court to amend the petition schedule. Dismissal of said application by the trial Court, led to filing of this revision.

A counter came to be filed before the Court below contending that the petitioner has not mentioned in the affidavit about the amendment sought for. The petitioner has simply stated that an opportunity may be given to amend the petition. Hence, prayed for dismissal of the revision.

After considering the rival submissions made, the trial Court dismissed the request of the petitioner on the ground that the petitioner has not specifically mentioned the portion of the

plaint which has to be amended. The trial Court also observed that original petition schedule differs from the consequential amendment of the petition schedule and there is no evidence on record to show that the consequential amendment schedule is true and correct.

Heard the learned counsel for the petitioner. In spite of issuance of notice, there is no representation on behalf of the respondents. Perused the material on record.

The main ground urged by the learned counsel for the petitioner is that due to mistake, wrong boundaries were mentioned in the original petition and as such the same need to be corrected.

It is to be noted that the alleged mistake that is said to have occurred in the instant case, cannot be said to be a typographical mistake or a mistake due to oversight. For better appreciation of the matter, schedule mentioned in RCC petition and amendment petition in I.A.No.1 of 2017 are hereby extracted:

Schedule mentioned in RCC petition:

“Chittoor district-Sri Balaji registration district – Tirupati urban sub-district – Tirupati village accounts – No.9, Akkarampalli group – Survey No.12/4 in Korlagunta, Maruthi Nagar, ward No.20, ACC sheet roofed house bearing Door No.20-1-172/2A bounded on :

East :	Lane
West :	House of Venkatesh
North:	House of C.Jayalakshmi
South:	House of R.Venkatappa;

within these boundaries East to West 16 feet; North to South : 14 feet total 224 square feet ACC sheet roofed house.”

Schedule mentioned in I.A.:

“ Chittoor District, Sri Balaji Registration District, Tirupati Urban Sub District, Tirupati village accounts, No.9, Akkarampalli group, Survey No.12/1 in Korlagunta, Maruthi Nagar, Ward No.20, ACC Sheet roofed house bearing Door No.20-1-172/A2 bounded on.

East: House of K.Srinivasulu
West: House of Venkatesh
North: House of C.Jayalakshmi
South: House of Obulesh

Within these boundaries East to West 18 square feet,
North to south 15 ½ feet in total 280.8 square feet with
ACC sheet roofed house.”

On a perusal of the above, the description of the schedule on East and South sides including the extents of the property are different. If the said amendment is accepted, the same amounts to giving a fresh cause of action, altering the suit schedule property itself.

Further, in answer to the observation made by the trial Court that no documents were filed in support of the amendment, the learned counsel for the petitioner vide USR No.4848 of 2017 filed a copy of the gift settlement deed dated 12.06.2002 and settlement deed dated 05.06.2009. As seen from the said documents, the schedule property is admeasuring 209.51 Square feet situated in survey No.12/1 whereas the proposed schedule (mentioned in I.A.) is admeasuring 280.8 square feet and is situated in survey No.12/4. Thus, viewed from any angle, I see no force in the contention of the learned counsel for the petitioner and hence, I see no reasons to interfere with the order of the trial Court.

Accordingly, the Civil Revision Petition is dismissed.

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

JUSTICE C. PRAVEEN KUMAR

01.09.2017
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