

THE HON'BLE DR. JUSTICE B.SIVA SANKARA RAO**CIVIL REVISION PETITION No.5843 OF 2011****ORDER:**

The revision petitioner is the defendant in the pending suit O.S.No.189 of 2009 on the file of Additional Senior Civil Judge (FTC), Gudivada of Krishna District. The respondent is the plaintiff therein. Pending suit, before commencement of trial, the plaintiff filed I.A.No.111 of 2011 under Order VI Rule 17 r/w Section 151 CPC to amend the typographical mistake in the plaint schedule description, that was allowed after contest by the impugned order of the learned Senior Civil Judge, dated 04.11.2011. The order reads as follows:

“ Perused the case records. The proposed amendment is in respect of the plaint schedule which is in accordance with the schedule of the property mentioned in the title deed of the defendant. The proposed amendment neither changes the cause of action nor the nature of the suit. The trial of the suit is not yet commenced. So under these circumstances at this stage, I feel that the petitioner can be permitted to amend the plaint schedule as proposed in the petition which will not cause prejudice to the case of the defendant. Whether the alleged mortgage is true or not cannot be decided in this petition.

2. Hence, this petition is allowed permitting the petitioner to amend the plaint schedule as proposed in the petition.”

2. From that order, trial is not commenced from the grounds urged in the revision, it is not a case that trial commenced. Once it is clearly observed though order is very short since supported by reasons of the proposed amendment is to rectify the mistake as per the sale deed description to correct the schedule and trial not even commenced, to sub-serve the ends of justice, the amendment can be allowed for no prejudice being caused to the defendant nor it changes the cause of action.

3. Having regard to the above and even the respondent/plaintiff to whom notice sent unclaimed as left is a sufficient service, there is nothing in the revision to interfere with the impugned order of the lower court. Hence, instead of dismissal, from the submission for early disposal of the suit by the lower court, the petition is disposed of.

4. Accordingly and in the result, this civil revision petition is disposed of. Miscellaneous petitions pending consideration, if any, in this case shall stand closed as consequence. There shall be no order as to costs.

Dr.B.SIVA SANKARA RAO, J

01.11.2017

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