

THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

C.R.P.No.2694 of 2017

ORDER:

This revision petition arises out of an order passed by the trial Court allowing an application filed by the plaintiffs seeking amendment of the plaint.

2. Heard Mr. V. Venugopala Rao, learned counsel for the petitioner.

3. The respondents 1 and 2 herein filed a suit against the 3rd respondent herein seeking eviction and also recovery of arrears of rent. In that suit, the petitioner herein, who is none other than the wife of the 3rd respondent, was impleaded as a 2nd defendant in an interlocutory application in I.A.No.24 of 2014 filed by the plaintiffs.

4. Thereafter, the suit was taken up for trial. In the course of trial, the plaintiffs came up with an application for amendment of the plaint. The purpose of amendment was to insert two paragraphs in the plaint. These paragraphs read as follows:

“para 7A) Despite the orders of the status quo by the Hon'ble Court not to alienate the lease hold rights of the schedule property on 08.03.2013, the defendant alienated the leasehold rights to his wife M.Suguna Latha, the 2nd defendant with an intention to defeat our rights and consequently the 2nd defendant is also liable to be evicted from the suit schedule property.”

“That as during the pendency of the suit the 1st defendant alienated lease hold rights in favour of 2nd defendant and the 2nd defendant is also bound to vacate the suit schedule premises.”

5. The petitioner opposed the applications on the ground that in the course of evidence, the creation of a new lease deed and the payment of arrears of rent have been accepted, and that therefore, in a suit for which the plaintiffs had a cause of action against the 3rd defendant, the petitioner cannot be roped in. But rejecting the said contention, the trial Court

allowed the application for amendment. Aggrieved by the same, the petitioner/2nd defendant is before this Court.

6. Admittedly, the 3rd respondent is the husband of the petitioner herein. It is said that an application for declaring the 3rd respondent as insolvent is already pending in I.P.No.6 of 2013. Moreover, the specific case of respondents 1 and 2/plaintiffs is that despite a status quo order, the petitioner was inducted as a tenant. If a person has entered into possession in violation of an interim order, the impleadment as well as the amendment of the plaint becomes necessary. Therefore, the trial Court was right in allowing the application for amendment.

7. The question as to whether the petitioner was inducted, in violation of the status quo order or not, is a question that depends upon the evidence and has to be finally decided in the suit. But it does not mean that there cannot be an amendment. Seeking dismissal of the application for amendment would destroy the very cause originally initiated by the plaintiffs.

8. Therefore, I find no illegality in the order of the Court below. Hence, the Civil Revision Petition is dismissed. However, the question as to whether the petitioner was inducted in violation of the status quo order; the question as to whether the petitioner's tenancy was acknowledged and rents received, as to whether there was a fresh lease deed, etc., are all left open to the petitioner to be agitated in the trial Court in the suit.

9. As a sequel, miscellaneous petitions pending in this revision petition, if any, shall stand closed.

JUSTICE V. RAMASUBRAMANIAN

7th July, 2017
Js.

THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

C.R.P.No.2694 of 2017



Date: 07-07-2017

Js.