

HONOURABLE SRI JUSTICE U.DURGA PRASAD RAO

CIVIL REVISION PETITION No. 4319 OF 2017

ORDER:

This C.R.P. is filed by the petitioners/defendants 1 to 3, 5 to 9 aggrieved by the order dated 13th April, 2017 in I.A.No.458 of 2016 in O.S.No.26 of 2012 on the file of V Additional District Judge, Rayachoty whereby and whereunder, the learned Judge allowed an application filed by the plaintiffs filed under Order 6 Rule 17 C.P.C. seeking permission of the court to amend the shares of the plaintiffs i.e., first plaintiff to get four shares and second plaintiff one share in the main suit.

After hearing the learned counsel for the petitioners, this court is of the view that this Revision Petition can be disposed of at the admission stage without ordering notice to the respondents/plaintiffs.

Plaintiffs 1 and 2 filed the suit O.S.No.26 of 2012 against defendants 1 to 12 seeking a decree directing the defendants 1 to 9 to execute registered sale deed in favour of the plaintiffs in respect of suit schedule property after receiving the balance consideration of Rs.14,63,500/- and in case, the defendants failed to execute sale deed as directed, the court may please to execute sale deed on behalf of defendants 1 to 9.

The defendants 1 to 9 filed written statement and opposed the suit.

While so, the plaintiffs filed I.A.No.458 of 2016 stating that defendants 10 to 12 requested the plaintiffs to pay their part of advance amount paid by them to the defendants 1 to 9 and on return of their advance amount, plaintiffs 1 and 2 can obtain sale deed from the defendants 1 to 9. Plaintiffs accordingly paid the advance amount to defendants 10 to 12 and in turn defendants 10 to 12 executed "*OPPUDALA DASTHAVEJU*" on 24-8-2012, as per which, the plaintiffs are entitled to get a registered sale deed from defendants 1 to 9, in such a manner that plaintiff No.1 would get four shares and second plaintiff would get one share. It is pleaded that at the time of filing of suit, by mistake, the plaintiffs have not narrated their respective shares in the suit schedule property and by way of amendment, they propose to specify their respective shares. Hence, the petition.

Respondents filed counter and the trial court after enquiry allowed the said petition as there was no tenable contest on behalf of respondents/defendants. The trial court observed that the nature of the suit would not be changed and no prejudice would be caused to the respondents, in case the petition were to be allowed.

Upon perusal of the impugned order, this court is of the view that there is no perversity in the order impugned. The suit is basically for specific performance of the suit agreement to sell dated 21.12.2011. By way of amendment, the plaintiffs only prescribed

their individual shares in the suit schedule property. As rightly observed by the trial court, allowing the amendment petition will not either change the nature of the suit or effect the contention of the defendants. Therefore, there are no merits in this C.R.P. to allow.

While dismissing this C.R.P., it is observed that the respondents/defendants are at liberty to file their additional written statement, after the plaint is amended by virtue of order in I.A.No.458 of 2016. No costs.

As a sequel, miscellaneous applications pending if any, shall stand closed.



JUSTICE U.DURGA PRASAD RAO

Dated 30th August, 2017.

Dvs

HONOURABLE SRI JUSTICE U.DURGA PRASAD RAO



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Dated 30th August, 2017.

Dvs