

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

CIVIL REVISION PETITION No.2288 of 2017

09.06.2017

Between:

Dwaram Sri Jagannadha Venkata Reddy Naidu @ Bobji and others
..Petitioners

and

Dwaram Sri Jagannadha Chinna Venkata Reddy and others
..Respondents

Counsel for the petitioners: Mr.Ravi Cheemalapati

Counsel for respondent Nos.1 and 2: Mr.S.Rajan

Counsel for respondent Nos.3 and 4: --

The Court made the following:



ORDER:

This civil revision petition arises out of order, dated 21.02.2017, in I.A.No.69 of 2017 in O.S.No.169 of 2010 on the file of VI Additional District Judge, Visakhapatnam.

2. Respondent Nos.1 and 2 filed the aforementioned suit against the petitioners and respondent Nos.3 and 4 for partition of the suit schedule properties consisting of ten items. The petitioners and other defendants filed a written statement on 23.11.2010, *inter alia*, pleading that the property under item No.1 is not partible. After commencement of the trial, the petitioners filed I.A.No.69 of 2017 for amendment of the written statement by filing additional written statement seeking to insert additional pleadings. This application was opposed by respondent Nos. 1 and 2/plaintiffs. The Court below has dismissed the said I.A., by the order under revision, on the principal reasoning that by filing additional written statement, the petitioners were seeking to withdraw the admissions made in favour of respondent Nos.1 and 2/plaintiffs.

3. Mr.Ravi Cheemalapati, learned counsel for the petitioners, has argued that the Court below has committed an error in holding that his clients are seeking to withdraw the admissions made in favour of respondent Nos.1 and 2/plaintiffs, for pleadings relating to the proposed additional written statement were only with regard to item No.1 and that as the original written statement was silent on the basis for the pleading that the aforesaid item was not partible, the petitioners sought to explain the same by raising elaborate averments in the additional written statement pleading existence of a Will.

4. Mr.S.Rajan, learned counsel for respondent Nos.1 and 2/plaintiffs, has fairly conceded that the finding of the Court below to the extent that by filing additional written statement, the petitioners intended to withdraw the admissions may not be correct. He has, however, strongly objected to the attempt of the petitioners to file additional written statement more than six years after the original written statement was filed and the trial was commenced. He has placed reliance on the judgment of the Supreme Court in P.A.Jayalakshmi vs. H.Saradha¹ to buttress his submission that the same limitations which apply to amendment of pleadings under Order VI Rule 17 C.P.C. would apply for raising additional pleadings under Order VIII Rule 9 C.P.C.

5. On considering the facts of the case in their entirety and the legal position, I am in agreement with the submissions of the learned counsel for respondent Nos.1 and 2. In P.A.Jayalakshmi (supra), the Supreme Court held that ordinarily leave for filing additional written statement is not granted at the belated stage and that unless the Court is satisfied that sufficient reasons existed for granting such leave, the defendants are not entitled to file additional written statement. In the said case also, the application for leave to file additional written statement was filed after the trial in the suit commenced. In the instant case, admittedly, the evidence on the plaintiffs' side was completed and D.W.1 has filed his chief affidavit about one year back. In these facts and circumstances of the case, I am of the opinion that the petitioners are not diligent and they cannot be permitted to file additional written statement at such a belated stage, which would have the inevitable result of delay in disposal of the suit.

¹ (2009) 14 SCC 525

6. For the aforementioned reasons, I do not find any merit in the Civil Revision Petition and the same is, accordingly, dismissed.

7. As a sequel to dismissal of the C.R.P., C.R.P.M.P.No.2977 of 2017 filed by the petitioners for interim relief shall stand dismissed as infructuous.

C.V.NAGARJUNA REDDY, J

09th June, 2017
GHN

