

HONOURABLE SRI JUSTICE U.DURGA PRASAD RAO

CIVIL REVISION PETITION No.4525 OF 2017

ORDER:

This C.R.P. is filed by the defendant aggrieved by the order dated 23rd August, 2017 passed in I.A.No.195 of 2017 in O.S.No.50 of 2010 on the file of Junior Civil Judge, Narayanpet whereunder the learned Judge dismissed the petition filed by the petitioner under Order VI Rule 17 of C.P.C. seeking permission to amend the paragraph 4 of his Written Statement and insert the word 'defendant' in place of the word 'plaintiff' wherever it occurs in that paragraph.

The submission of learned counsel for the petitioner/defendant is that, in paragraph 4, instead of mentioning the word 'defendant', it was by mistake mentioned as 'plaintiff' which is a typographical error and therefore, the trial court ought to have allowed the petition and permitted him to make such amendment.

Per contra, the learned counsel for the respondent/plaintiff would submit that the mentioning of the word 'plaintiff' in paragraph 4 is an admission on the part of the defendant that the plaintiff has been recorded as pattadar of the suit land and he has been cultivating the suit land and as such, the admission once made cannot be permitted to be deleted by way of amendment and therefore, the trial court rightly rejected the petition. Hence, he prayed to dismiss this revision petition.

The point that would arise for consideration in this revision is whether there are merits in this C.R.P. to allow?

POINT:

A plain reading of paragraph 4 of the Written Statement, a copy of which is filed would show that by mistake, it is mentioned as 'Plaintiff' instead of defendant. Contextually, the defendant in paragraph 4 says that, one late Balappa was the owner and pattadar of land in Sy.No.369 in an extent of Ac.6.25 Guntas situated within the limits of Ujjelli village and he sold the said land to the defendant under a registered sale deed vide document Number 473 of 1974 dated 13-5-1974 and delivered possession and on the strength of the said document; the defendant has become absolute owner; name of the plaintiff (sic defendant) has been recorded as pattadar of the said land; the plaintiff (sic defendant) has attained majority within four years of purchasing the land; the plaintiff (sic.defendant) has been cultivating the said land since 30 years.

So, the contention of the defendant if taken as a whole in paragraph 4, it would mean, the defendant wanted to project that he purchased the land covered by S.No.369 from one Balappa and his name has been recorded as pattadar and within four years after purchasing, he attained majority and started cultivation personally.

The term 'plaintiff' in the context can be said as only a mistake. Therefore, it cannot be treated as an admission on the part of defendant. The trial court took the employment of the word 'plaintiff' as an admission on the part of the defendant as if the plaintiff's name has been recorded as pattadar and he has been cultivating the suit land. It must be reiterated that such a meaning cannot be accepted when the entire paragraph number 4 is taken

into consideration. Therefore, the order of the trial court is liable to be set aside.

At this juncture, the learned counsel for the respondent requested that if the amendment is allowed and defendant is permitted to replace the term 'plaintiff' with defendant, liberty may be given to the respondent/plaintiff to contend in the suit that the originally defendant admitted the plaintiff as pattadar and he has been cultivating the suit land despite amendment is permitted. This court finds no reason to permit him to take such a plea in view of above observation to the effect that the employment of the word 'plaintiff' is only a mistake.

Accordingly, this Civil Revision Petition is allowed and impugned order dated 23rd August, 2017 passed in I.A.No.195 of 2017 in O.S.No.50 of 2010 on the file of Junior Civil Judge, Narayanpet is set aside and petitioner/defendant is permitted to amend only paragraph 4 of the Written Statement and substitute the word 'defendant' in place of the word 'plaintiff' wherever it occurs in paragraph No.4 of his Written Statement. No costs.

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

JUSTICE U.DURGA PRASAD RAO

Dated 10th November, 2017.

Dvs

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