

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CIVIL REVISION PETITION No.795 of 2016

ORDER:

This Civil Revision Petition, under Article 227 of the Constitution of India, is filed challenging the order, dated 18.12.2015, passed in Interlocutory Application No.1142 of 2015 in Original Suit No.144 of 2008 by the Senior Civil Judge, Markapur, whereby, the application filed under Order VI Rule 17 of the Code of Civil Procedure, 1908 (for short, 'C.P.C'), to permit the petitioner herein to amend the plaint schedule as per Memo, was dismissed.

2. Heard both sides.

3. The petitioner herein filed the aforesaid suit for specific performance of agreement of sale against the respondent. In the affidavit filed in support of the petition, it is stated that after filing of the suit, Government acquired some extents of property mentioned in Item Nos.2 and 3 of the plaint schedule property for construction of channels for Poola Subbaiah Velugonda Project. The petitioner filed the aforesaid Interlocutory Application seeking amendment of the plaint, which reads as follows:

Memo consequential amendment

“1. In the plaint schedule, Item No.2, the extent may be amended as Ac.1- 27 ½ cents instead of Ac.1-471/2 cents and western boundary may be changed as the channel of P.S.Velugonda Project instead of Land of Narala Venkateswarlu.

2. In the plaint schedule, Item No.3 the extent may be amended as Ac.2-43 cents instead of Ac.2-75 cents and western boundary may be changed as the channel of P.S.Velugonda Project instead of Land of Mekala Nagaiah, Subbaiah.”

The Court below dismissed the application on the ground that the trial has already been commenced and in view of bar under proviso to Order VI Rule 17 CPC, amendment cannot be allowed.

4. The present petition is filed only to bring on record some of the incidents that took place subsequent to filing of the plaint. Though the petitioner filed petition to bring those additional facts on record, he is required to amend the plaint by invoking Order VI Rule 17 CPC. If the incident is prior to filing of the plaint and trial has commenced, the proviso to Order VI Rule 17 CPC will come into play. But, in view recent Judgments of the Apex Court reported in **Sampath Kumar v. Ayyakannu and Another**¹, **Revajeetu Builders and Developers vs. Narayanaswamy and Sons and others**² and by this Court in **T. Venkata Ravamma and Ors. v. Karnati Lakshamma and Ors**³, subsequent events can be brought on record by invoking Order VI Rule 17 CPC and bar under proviso to Order VI Rule 17 CPC would not apply since the amendment is the only option available to the petitioner to bring to the notice of the Court the subsequent events. Therefore, dismissal of application by the trial Court in view of bar under proviso to Order VI Rule 17 CPC is illegal and the impugned order is liable to be set aside.

5. Accordingly, the Civil Revision Petition is allowed setting aside the order, dated 18.12.2015, passed in Interlocutory Application No.1142 of 2015 in Original Suit No.144 of 2008 by the

¹ 2002 (7) SCC 559

² 2009 (10) SCC 84

³ 2015 (5) ALT 184

Senior Civil Judge, Markapur and I.A.No.1142 of 2015 filed by the petitioner is allowed permitting him to amend the plaint.

Miscellaneous petitions, if any, pending in this revision petition shall stand closed. There shall be no order as to costs.

M. SATYANARAYANA MURTHY, J

JULY 6, 2017
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Date: 06.07.2017

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