

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

CRP.No.5465 of 2017

ORDER :

Heard the counsel for petitioner, and Sri J. Ravindra, counsel for respondents.

2. This Revision is filed by petitioner assailing the order dt.01.09.2017 in I.A.No.24 of 2017 in O.S.No.202 of 2009 on the file of X Additional District Judge, Narsapur.

3. The petitioner herein is 1st respondent in the above suit.

4. The suit was filed for partition by the 1st respondent.

5. Initially, the 1st defendant filed written statement on 21.01.2010. Subsequently, the 2nd defendant died, and the petitioner / defendant no.1 filed additional written statement on 11.04.2017.

6. Issues had been settled on 16.04.2010, and the case was coming up for recording of evidence of defendant, after the closure of the evidence of plaintiffs.

7. At that stage, petitioner herein filed I.A.No.24 of 2017 seeking amendment of the written statement, and seeking to incorporate para no.15 (a) to (d) in the written statement already filed.

8. The said application was opposed by 1st respondent contending that the proviso to Order VI Rule 17 does not permit such applications

for amendment after commencement of trial, particularly when the petitioner did not exercise due diligence before the commencement of trial.

9. This objection was sustained by the Court below, and the impugned order was passed rejecting the said application.

10. Assailing the same, the present Civil Revision Petition is filed.

11. The counsel for petitioner contended that the Court below ought to have allowed the application for amendment and that to safeguard his interest in an effective manner, the petitioner ought to have been permitted to amend the written statement.

12. Order VI Rule 17 C.P.C., no doubt, permits amendments to pleadings, but the proviso added thereto in 2002 makes it obligatory on the part of applicant for amendment to show that despite exercising due diligence, he could not have filed such application before commencement of trial.

13. Since no reason had been assigned by petitioner for seeking amendment of written statement after the trial commenced and for not seeking the same before the commencement of trial, I see no reason to interfere with the order passed by the Court below.

14. Accordingly, the Civil Revision Petition is dismissed at the stage of admission. No order as to costs.

15. As a sequel, miscellaneous petitions pending if any in this Civil Revision Petition, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 27-10-2017

Ndr/*

