

THE HON'BLE SRI JUSTICE M.S.K.JAISWAL

C.R.P.No.5837 of 2017

ORDER

The main grievance of petitioners/plaintiffs is that they filed an Interlocutory Application in G.R.No.9099 of 2017 in O.S.No.381 of 2008 on the file of Principal Senior Civil Judge at Srikakulam, under Order 6 Rule 17 C.P.C., for amendment of the plaint, but the trial Court is not taking up the said application for disposal and instead, insisting for submission of arguments in the main suit itself.

2. Heard learned counsel for petitioners and perused the record.

3. Originally, the suit was filed for declaration and permanent injunction. It is alleged that even though the orders of *status quo* were existing, the respondents/defendants are alleged to have violated the same and dispossessed the petitioners/plaintiffs from the suit schedule property. It is stated that the evidence adduced by either of the parties in the main suit already covers the issue of recovery of possession, but unless there is a pleading to that effect, serious prejudice would be caused to petitioners. Therefore, they filed the application under Order 6 Rule 17 CPC seeking amendment of plaint for recovery of possession in addition to the relief of declaration of title.

4. In that view of the matter, the Civil Revision Petition is disposed of, directing the trial Court to number the application filed by petitioners in G.R.No.9099 of 2017 in O.S.No.381 of 2008 under

Order 6 Rule 17 C.P.C., and dispose of the same in accordance with law before disposal of the main suit.

5. No order as to costs. Miscellaneous petitions, if any, pending in this revision shall stand closed.

M.S.K.JAISWAL,J

3rd November, 2017

Note:
Issue CC by Monday.

sj

