

HON'BLE SRI JUSTICE SURESH KUMAR KAIT

CIVIL REVISION PETITION No.5613 of 2017

ORDER : (Oral)

Vide the present petition, petitioners have assailed the order dated 6th September, 2017 passed in I.A.No.1490 of 2017 in O.S.No.215 of 2007 on the file of III Additional District Judge, Guntur.

2. The petitioners filed the above application under Order 6 Rule 17 CPC for amendment of the plaint.

3. It is not in dispute that O.S.No.215 of 2007 is filed for specific performance of the suit contract of sale dated 17.11.2006, executed by defendant No.1 in favour of the plaintiffs. During the pendency of the suit, defendant No.1 died and his legal representatives are added as defendants 2 to 6. In the written statement filed by defendant No.1, he mentioned that the plaintiffs have no financial capacity to pay the balance sale consideration, therefore, they entered into another contract of sale with one Satyanarayana of Sattenapalli. The trial in the suit had completed long back and when the suit was coming up for arguments, the petitioners filed I.A.No.626 of 2010 for reopening of the matter for the purpose of recalling PW-1 for adducing further oral and documentary evidence. They filed another I.A.No.627 of 2010 for recalling PW-1 for the purpose of his further examination and for producing documentary evidence. Both the said applications were

dismissed vide common order dated 23rd August 2010. Further, I.A.No.781 of 2010 filed by the plaintiffs for receiving of certain documents for the purpose of marking them on their behalf, was rejected on 25th August 2010. The said order become final and the petitioners have not challenged the said orders by filing revision petition before this Court.

4. It is pertinent to note that later, the petitioners filed I.A.No.963 of 2010 for reopening of the suit for receiving the amendment petition. The same was dismissed on 11.02.2011 holding that the suit cannot be reopened for receiving the amendment petition. Along with the said application, petitioners have also filed I.A.No.1490 of 2017 for amendment of plaint, but by the date of dismissal of I.A.No.963 of 2010, I.A.No.1490 of 2017 was not numbered. Challenging the dismissal of I.A.No.963 of 2010 by order dated 11.02.2011, the petitioners preferred C.R.P.No.1209 of 2011 before this Court. The said revision petition was allowed by observing that though the application filed by the petitioners under Order 6 Rule 17 CPC was not numbered, the trial Court dismissed I.A.No.963 of 2010 basing on the averments made in the petition filed under Order 6 Rule 17 of CPC. Consequently, this Court directed the Court below to number the petition filed under Order 6 Rule 17 CPC and dispose of the same along with I.A.No.963 of 2010, which was restored to the file of the Court below.

5. I note, as per the averments, the proposed amendment is only to the effect that the 1st petitioner is owning several crores of worth of immovable properties and he purchased several properties under various sale deeds whose details are mentioned in the proposed amendment. In the plaint, the plaintiffs have taken a plea that they are ready with the balance sale consideration and registration expenses and they are willing to perform their part of contract. In the written statement filed by the 1st defendant, he took a plea that the plaintiffs have no capacity to pay the balance sale consideration. When the petitioners have already taken a plea that they are ready with the balance sale consideration, amendment as sought for in the petition cannot be permitted only for the purpose of mentioning some details about the properties purchased by the plaintiffs.

6. In view of the above facts, I find no illegality or perversity in the order dated 6th September 2017 passed in I.A.No.1490 of 2017 in O.S.No.215 of 2007 on the file of III Additional District Judge, Guntur.

7. The revision petition is accordingly dismissed. No order as to costs.

Pending miscellaneous applications, if any, shall stand closed.

SURESH KUMAR KAIT, J

27th October 2017

ajr