

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

CRP.No.6686 of 2017

ORDER :

This Revision is filed challenging the order dt.06.11.2017 in I.A.No.510 of 2017 in O.S.No.249 of 2009 on the file of Principal Junior Civil Judge, Madanapalle.

2. The petitioner herein is plaintiff in the above suit.
3. She filed the suit for permanent injunction against respondents to restrain them from interfering with her peaceful possession and enjoyment of the plaint schedule property.
4. After trial commenced and PW.1 was examined, the petitioner herein filed I.A.No.510 of 2017 on 11.09.2017 under Order VI Rule 17 of Civil Procedure Code, seeking permission to amend the plaint; and also seeking declaration of her right, title and interest over the plaint schedule property.
5. By order dt.06.11.2017, the Court below dismissed the said application. It held that defendants had denied respondent's right, title and possession and filed written statement on 18.08.2009, but the application for seeking amendment was filed after trial commenced and after completion of cross-examination of PW.1.
6. Challenging the same, the present Civil Revision Petition is filed.

7. Though counsel for petitioner contended that grave prejudice would be caused to petitioner if the application for amendment is not allowed, I am unable to accept the said contention in view of the proviso to Order VI Rule 17 C.P.C. introduced by the Code of Civil Procedure (Amendment) Act, 22 of 2002, which came into effect from 01.07.2002.

8. The said proviso states that no application for amendment shall be allowed after the trial has commenced unless the Court comes to the conclusion that in spite of due diligence the party could not have raised the matter before commencement of trial.

9. In the above application, viz., I.A.No.510 of 2017 filed in the Court below, there is no mention as to the difficulty which the petitioner had in not seeking amendment before the commencement of trial.

10. Therefore, I see no reason to interfere with the order passed by the Court below.

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

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

JUSTICE M.S.RAMACHANDRA RAO

Date: 21.12.2017

Ndr/*