

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

CIVIL REVISION PETITION No.163 of 2018

ORDER:

Heard the learned counsel for petitioners.

2. This Revision is filed challenging the order dt.10-11-2017 in I.A.No.357 of 2017 in O.S.No.200 of 2011 of the X Additional District Judge, Tirupati allowing the application for amendment filed by respondent Nos.1 and 2/plaintiffs.

3. Respondent Nos.1 and 2 had filed the suit for partition of the plaint schedule properties.

4. Before the trial commenced, they filed on 19-06-2017 I.A.No.357 of 2017 under Order VI Rule 17 C.P.C. to amend the plaint by adding another schedule to the plaint schedule. They contended that though they had executed a relinquishment deed in favour of 2nd defendant in 2010, the said relinquishment deed was conditional on payment of money and since the 2nd defendant did not keep his promise, they cancelled it on 29-12-2010. They therefore contend that the said item be included in the plaint schedule.

5. Counter-affidavit is filed by 1st petitioner opposing the same and it is contended that respondent Nos.1 and 2 had filed O.S.No.405 of 2012 for cancellation of the relinquishment deed, which was also dismissed and suppressing this fact, this application is filed.

6. By order dt.10-11-2017, the Court below allowed the application for amendment on payment of costs of Rs.500/- by respondent Nos.1 and 2 to petitioners. The Court below held that to avoid multiplicity of litigation, the application for amendment can be considered. It also held that whether respondent Nos.1 and 2 had any right to seek partition of the plaint schedule properties or not, is a matter for evidence and there cannot be any valid objection to add further properties in the suit.

7. Challenging the same, this Revision is filed.

8. Though learned counsel for petitioners sought to contend that the Court below ought to have dismissed the application for amendment of plaint, having regard to the fact that the Court below cannot go into the correctness of the case set up in the amendment application when deciding whether or not to allow application for amendment, one cannot find any fault with the order passed by the Court below.

9. Accordingly, the Civil Revision Petition is dismissed at the stage of admission. No costs.

10. As a sequel, the miscellaneous petitions, if any pending, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 24-01-2018
VSV