

HON'BLE SRI JUSTICE S.V. BHATT

C.R.P.No.1098 OF 2018

ORDER:

Heard Mr.Srinivas Polavarapu for petitioners.

The plaintiffs in O.S.No.213 of 2016 are the revision petitioners. The revision petitioners filed the suit for perpetual injunction and the suit was decreed on 16.08.2017.

The revision petitioners filed I.A.No.719 of 2017 under Section 152 of the Civil Procedure Code to amend the decree and judgment dated 16.08.2017 by mentioning the name of advocate for defendant. The trial Court through the order impugned in the revision declined to accept the prayer in I.A.No.719 of 2017. Hence, the revision.

Mr.Srinivas Polavarapu contends that though the suit is decreed *ex parte* but the trial Court is required to refer to the name of learned counsel who appeared for defendant in the suit by permitting amendment under Section 152 of CPC. The trial Court is not changing the judgment and decree and on the other hand, would only be correcting a clerical omission.

I have perused the record and the contention is merely noted to be rejected. This Court is in full agreement with the reasons stated by the learned trial Judge. In addition to the reasons assigned by the trial Court, this Court upon consideration of record expresses its view as follows.

O.S.No.213 of 2016 is not decreed on contest by the defendant. The sole defendant was set *ex parte* and thereafter the revision petitioners were allowed to lead evidence. The evidence led by the revision petitioners was considered by the trial Court and the decree and judgment dated 16.08.2017 was made. For all purposes, the counsel who appeared for the defendant is not participating in the trial of the suit or advanced arguments in the matter. Under those circumstances, referring to the name of the advocate who appeared for defendant would not be consistent with the other expression used by the learned Judge "that the defendant is set *ex parte* and upon perusing the material paper on record, having heard and having stood over for consideration till this day, the Court delivered the following judgment".

Revision fails and is, accordingly, dismissed. There shall be no order as to costs.

Pending miscellaneous petitions, if any, stand closed.

S.V.BHATT, J

12th March, 2018

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