

HON'BLE SRI JUSTICE S.V. BHATT

C.R.P.Nos.1135 & 1225 OF 2018

COMMON ORDER:

Heard Mr.Subramanyam Daraboina for petitioner and Mr.Ashok Reddy Kanathala for respondents 1 and 2.

Plaintiff in O.S.No.160 of 2012 in the Court of the Principal Junior Civil Judge, Jangaon is petitioner in both the revisions. C.R.P.No.1135 of 2018 is filed aggrieved by the order dated 25.01.2018 in I.A.No.78 of 2017 in I.A.No.315 of 2012 in O.S.No.160 of 2012 and C.R.P.No.1225 of 2018 is filed against the order dated 25.01.2018 in I.A.No.77 of 2012 in O.S.No.160 of 2012. Defendants 1 and 2 filed I.A.No.78 of 2017 under Section 151 CPC seeking rejection of the amendment carried out by the plaintiff on 21.01.2017 in I.A.No.315 of 2012 and also the plaint while I.A.No.77 of 2017 is filed under Section 151 CPC seeking rejection of the amendment carried out by the plaintiff on 21.01.2017 in O.S.No.160 of 2012.

It is stated by the 2nd defendant in the affidavit filed in support of I.A.Nos.78 and 77 of 2017 that the plaintiff filed the suit for perpetual injunction in respect of open land. During the pendency of the suit, the plaintiff filed I.A.Nos.432 and 431 of 2012 under Order VI Rule 17 CPC seeking amendment of boundaries which were allegedly typed as East, West, North and South instead of North, South, East and West. The trial Court allowed I.A.Nos.432 and 431 of 2012. The revisions filed against the said IAs are pending before this Court. It is further stated that the plaintiff ought to have carried out

the amendment in the plaint and also I.A before 04.05.2016, but he carried out the amendment on 21.01.2017 i.e., almost after eight months and the amendment is liable to be rejected. The plaintiff filed counter opposing the prayer in I.A.Nos.78 and 77 of 2017 and stating that the trial Court extended time for carrying out the amendment, also filing fair copy of amended plaint till 21.01.2017 and the docket sheet of the suit clearly evidences the fact of granting time till 21.01.2017. Through the orders under revision, the trial Court rejected the request of revision petitioner holding that the plaintiff deviated from the procedure under Order VI Rule 18 CPC. Hence, the revisions.

The Court is convinced that there is casual approach on the part of revision petitioner in filing amended copy of plaint. The certified copy of docket order discloses that on 17.01.2017, time was granted till 06.02.2017 to carry out amendment and file neat copy of the plaint. Admittedly, in the case on hand, on 21.01.2017, the direction is complied by the revision petitioner. The instant applications are filed on 06.02.2017. Taking the overall view of various explanations granted and keeping in view the docket order dated 17.01.2017 and 06.02.2017, I am satisfied that the reasoning given by the trial Court is unsustainable and liable to be set aside, for on the one hand, time was extended till 21.01.2017 and on the other, within the extended time, the neat copy of plaint is filed. Therefore, rejection of amended plaint suffers from patent illegality and amounts to non-consideration of relevant dates.

The revisions are, accordingly, allowed and the orders under revision are set aside. The trial Court is directed to dispose of the suit as expeditiously as possible, preferably within six weeks from the date of receipt of a copy of this order. There shall be no order as to costs.

Pending miscellaneous petitions, if any, stand closed.

23rd November, 2018
Lrkm

S.V.BHATT, J

