

HON'BLE SRI JUSTICE SURESH KUMAR KAIT

CIVIL REVISION PETITION No.1707 of 2018

ORDER : (Oral)

Vide the present petition, petitioners have assailed the order dated 22nd January 2018, passed in I.A.No.747 of 2017 in O.S.No.109 of 2013, whereby, the petition filed by the petitioner-defendants under Order VIII Rule 9 and Section 151 of CPC to receive the additional written statement regarding legal aspects, was dismissed.

2. The petitioners are defendants in O.S.No.109 of 2013, which was filed by the respondent/plaintiff for declaration of title and for recovery of possession, basing on a registered gift deed dated 17th April 1996 executed by one Syamala Narayana Reddy @ Narapa Reddy, and also for consequential recovery of possession of the plaint schedule property from August 2012 till the date of delivery of plaint schedule property. The petitioners herein has already filed written statement. However, plea of the petitioners is, at the time when the matter was coming up for arguments, the petitioners approached their Counsel for preparation of arguments. While going through the record, their Counsel found that there were no denials, much less, specific denials regarding the aspects of alleged registered gift deed No.463 of 1996, dated 17.04.1996 executed by Syamala Narayana Reddy, who is the paternal grandfather of the respondent for an extent of Ac.1-40 cents of dry land. Due to oversight, the said allegations were not denied in the written statement because of lack of legal knowledge. They also have not taken the legal aspects regarding due

execution and attestation of alleged deed in favour of respondent and also with regard to maintainability and limitation as the suit filed by respondent and also O.S.No.175 of 2012 on the file of Principal Junior Civil Judge, Tenali against the 1st respondent and one Kalakoti Bharathi.

3. Learned counsel appearing on behalf of petitioners submits that the proposed amendment to the written statement will not prejudice the right of the respondent-plaintiff, as the said amendment is only a legal issue. But, the learned trial Court, without considering the same, has dismissed the I.A. To strengthen her argument, counsel for petitioner has relied on the judgments in **Raj Kumar Bhatia v. Subhash Chander Bhatia**¹, **N.Guruvarao & another v. B.Pratap Reddy & others**² and in **P.Hajiram Bi & others v. M.Ismail Khan & others**³.

4. Case of the respondent-plaintiff is that his grand father, namely, Syamala Narayana Reddy @ Narapa Reddy had executed registered gift deed in his favour in respect of the suit schedule property i.e. Ac.1-40 cents of dry land covered under D.No.4/1 of Srungarapuram village. Basing on that gift deed, he filed the suit for declaration, to declare him as the owner of the suit schedule property and for recovery of possession from the defendants and also for future *mesne*

¹ (2018) 2 SCC 87

² 2013 (4) ALD 604

³ 2012 (3) ALD 669

profits from the present petitioners. In the written statement filed by the petitioners herein on 31.10.2013, there is an admission on the part of defendants 1 to 3 about the execution of registered gift deed, dated 17th April 1996, in favour of respondent-plaintiff by one Narayana Reddy. However, the petitioners have taken the plea that as the present respondent did not treat well the above said Narayana Reddy and his wife, a revocation deed was executed by Narayana Reddy under document No.2284/2000 by cancelling the earlier gift deed, dated 17th April 1996. Thereafter, the aforesaid Narayana Reddy sold an extent of Ac.1-00 cents out of Ac.1-40 cents of dry land to the 1st petitioner herein for a valid consideration. Thereafter, the 1st petitioner executed two registered gift deeds in favour of petitioner Nos.2 and 3. During the cross-examination of PW-1 also, the execution of registered gift deed, dated 17th April 1996, in favour of respondent by S.Narayana Reddy, was not denied.

5. When once there is an admission on the part of petitioners herein about the execution of registered gift deed in favour of respondent herein for an extent of Ac.1-40 cents of dry land covered under document No.4/1 of Srungarapuram village by one Narayana Reddy, now they cannot take any other plea contrary to the written statement filed by them, especially at this belated stage when the matter is coming up for arguments after completion of evidence of both sides.

6. It is trite that ignorance of law is no excuse. The lacuna, if any, cannot allowed to be filled up by any of the parties. The fact, which has already been accepted by the petitioners in their written statement, cannot be allowed to be denied by way of amendment in written statement.

7. In the present case, the additional plea of petitioners is not an alternative plea, but it is quite contrary to the plea taken in the original written statement. Therefore, the cases relied upon by the learned counsel for petitioners are not applicable to the facts and circumstances of the present case.

8. Accordingly, I find no illegality or perversity in the order passed by the trial Court and the same is accordingly confirmed.

9. The revision petition is dismissed. No order as to costs.

Pending miscellaneous applications, if any, shall stand closed.

SURESH KUMAR KAIT, J

29th March 2018

ajr