

HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRP.No.2015 OF 2017

ORDER

This Civil Revision Petition is filed under Section 115 of CPC questioning the order dated 03.03.2017 passed in I.A.No.429 of 2016 in I.A.No.310 of 2016 in O.S.No.67 of 1990 by the Additional Senior Civil Judge, Anantapur (FAC) Gooty, allowing the petition filed under Order 6 Rule 17 read with 151 CPC to amend the suit schedule property in the preliminary decree and also in the final decree petition on the ground that there are errors in the schedule annexed to the plaint.

The revision petitioner herein is the respondent No.10 and the 1st respondent is the petitioner before the Court below.

The respondents therein opposed the petition raising several contentions. Despite the objections raised by the respondents, the Court below allowed the same. Aggrieved by the said order, the present revision is filed challenging the impugned order on the ground that the decree cannot be amended by exercising the powers under Section 151 CPC and prays to set aside the same.

Learned counsel appearing for the petitioner reiterated the same contention before this Court.

However, learned counsel appearing for the respondents seeks leave of this Court to file appropriate application before the Court below for setting aside the impugned order.

Order VI, Rule 17 read with 151 CPC deals with amendment of pleadings, which is inclusive of plaint and written statement. Therefore, Order VI, Rule 17 can be invoked to amend the pleadings as defined under Rule 1 of Order 6. Pleadings shall mean plaint and written statement, but the petitioner therein sought to amend the schedule which was annexed to the preliminary decree without amending the original pleading. Even to amend the decree, the Court can exercise power under Section 152 CPC only to rectify the clerical or arithmetical mistakes but not otherwise. Therefore, the petitioner therein is disentitled to claim the relief under Order VI Rule 17 CPC. Thus, the Court below committed serious error in ordering the petition by permitting the petitioner therein to amend the preliminary decree schedule annexed to the preliminary decree and the same is liable to be set aside.

In view of the request made by the learned counsel for the respondents, liberty is given to the respondents to file an application before the Court below for necessary relief subject to provision to Order VI Rule 17 CPC.

Accordingly, the Civil Revision Petition is allowed setting aside the order dated 3.3.2017 passed in I.A.No.429/2016 in I.A.No.310 of 2016 in O.S.No.67 of 1990. No costs.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE M.SATYANARAYANA MURTHY

7th February, 2018
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