

THE HON'BLE SRI JUSTICE S.V.BHATT

C.R.P.No.3167 of 2010

ORDER:

The petitioner is the plaintiff in O.S.No.274 of 2007. O.S.No.274 of 2007 is filed for declaring the amount demanded by defendants and thereby disconnecting the power supply to S.C.No.2548, as illegal etc.

The petitioner prays for a consequential mandatory injunction seeking restoration of power supply to S.C.No.2548.

On 21.01.2008, the petitioner filed I.A.No.137 of 2008 for amendment of plaint to include the prayer of special damages for the loss said to have been suffered by the petitioner during the period of disconnection of power supply to S.C.No.2548.

The respondents/defendants in all fours resisted the prayer for amendment and for the view I am proposing to take in the instant order, I am not referring to the lengthy counter filed by the respondents.

The learned trial Judge through order dated 22.04.2010 dismissed the application. Hence, the Civil Revision Petition.

Sri P.V.Sanjeeva Rao contends that the order of the trial Court is completely untenable and for the reasons recorded in the order impugned in CRP, he contends that the prayer of petitioner is not objectively considered by the learned trial judge. Adverting to the merits of the proposed amendment, he contends that the proposed amendment is to compensate the loss suffered by the petitioner during the period of disconnection of power supply. Therefore, the learned trial Judge ought to have allowed the application.

Mr.Siva Reddy contends that the petitioner is not entitled for the prayer for amendment of plaint for the reasons that are framed in the suit is one for declaration of demand of amount, as illegal. By referring to said valuation, the jurisdiction of the Court of Principal Junior Civil Judge was invoked. The proposed amendment together with the relief under the head of special damages would exceed the jurisdiction of trial Court. The trial Court once perceives that the proposed amendment exceeds its pecuniary jurisdiction; it cannot, as rightly declined by the trial Court exercise its jurisdiction and then return the numbered plaint. To add the emphasis to his submissions Mr.Siva Reddy contends that the petitioner is miffed by continuous disconnection of power supply without cause

and pursuing his legal remedies. Mr. Sanjeeva Rao joins very quickly and submits that an advocate is also entitled to work out the remedies before the court of law like any other party. The Court is constrained to refer to not only to the extent of averments in the record but also the submissions, as they were made with seriousness by both the counsel.

In the case on hand, the following reasons are recorded by the trial Court:

- (a) That apart if the proposed amendment is allowed the value of the suit will exceed the pecuniary jurisdiction of this Court and thereby oust the jurisdiction of this Court. Even the consequential amendments mentioned by the petitioner are ambiguous and lack clarity.
- (b) At certain places the blanks were left unfilled. Therefore, seen from any angle I do not find any proper ground to allow this petition. Before parting with I am constrained to express my displeasure about the comments made by the petitioner in his petition that this Court has mechanically issued notice to the respondents without granting ex parte temporary injunction.
- (c) The petitioner being an advocate ought not have such comments against the Court. As rightly contended by the respondents, if he is aggrieved by the order of this Court it is always open for him to approach a higher forum for appropriate remedy.

- (d) The process of law allows him to challenge the orders of this Court at a higher forum. Without doing so, the petitioner has made these unwarranted statements showing no respect towards this Court. Hence this Court regrets the same and hopes that better sense will prevail over the petitioner in future.

The consideration of the one or other reasons either together or independently leads to inevitable conclusion that the trial Court instead of permitting amendment which takes suit out of the pecuniary jurisdiction of the Court exercised its discretion and refused amendment. This Court is in agreement for the reasons recorded by the learned trial judge.

Hence, the revision fails. The petitioner, if is still interested in working out the prayer for special damages, the petitioner can always being an advocate can pursue remedies in accordance with law.

With the above observations, the Civil Revision Petition is dismissed. No order as to costs.

Miscellaneous petitions, if any, pending, shall stand closed.

S. V. BHATT, J

Dt: 14.08.2018
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