HON'BLE SRI JUSTICE A.SHANKAR NARAYANA

CIVIL REVISION PETITION No.4531 OF 2011

ORAL ORDER:

No representation for the revision petitioner.

2. In a suit for partition filed by the revision petitioner in O.S. No.375 of 1999 on the file of I Additional Junior Civil Judge, Tanuku (for short, 'the trial Court'), she has shown schedule of the properties and, on contest, the suit was decreed with costs, on 27.09.2007. Thereafter, the revision petitioner made an application in I.A. No.1643 of 2009, under Order VI Rule 17 R/w. Section 151 of Civil Procedure Code, 1908 (for short, 'the C.P.C.'). Her request therein was that, while describing the suit schedule property, she described it as two items and shown distinct boundaries to Items 1 and 2, respectively, though, the suit schedule property is a contiguous plot and boundaries ought to have been mentioned only for the entire plot and, hence, sought for amendment of the plaint schedule. The said amendment petition was dismissed by the trial Court, by passing a docket order, observing as to how the petitioner could detect the same when already the properties were described with distinct boundaries. The said order is under challenge in the present Civil Revision Petition.

3. What all the revision petitioner wants to agitate is that an amendment, under Order VI Rule 17 of C.P.C., can be pleaded at any stage of the proceedings and can be allowed on such terms as may be just and that the said provision provides that the amendment can be sought as may be necessary for the purpose of determining the real questions in controversy between the parties and without considering the same, the order under challenge was passed.

4. In fact, there was no stay granted by this Court when C.R.P. was taken up at the first instance, on 28.11.2011, when came up under the caption 'for admission'. When the whole property is shown in the plaint schedule either in two plots or in one plot, there cannot be any change in the share claimed by the revision petitioner – sole plaintiff. The fact remains is when distinct boundaries were already shown for each item in the plaint schedule, it is impermissible for the revision petitioner to come up with the proposed amendment contending that it is only a contiguous plot and the boundaries to the entire plot ought to have been showed and by inadvertence it was not done. Such a ground is without any merit.

5. Therefore, the present Civil Revision Petition is dismissed. There shall be no order as to costs.

As a sequel thereto, miscellaneous petitions pending in this Civil Revision Petition, if any, shall stand dismissed.

A.SHANKAR NARAYANA, J

Date: 22.03.2018.
Dsh