

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

CIVIL REVISION PETITION No.3318 OF 2018

ORDER :

This revision is filed against the order dated 21.02.2018 passed in IA.No.467/2017 in OS.No.312/2011 by the I Additional Junior Civil Judge, Tanuku, West Godavari District, wherein and whereby the application filed by the petitioner/plaintiff under Order-6, Rule-17 CPC, seeking amendment of plaint by re-opening the case was dismissed.

Learned counsel for the petitioner submits that since the respondents/defendants denied the title of the petitioner, it is necessary for the petitioner to amend the prayer. But, the Court without considering the same dismissed the application. He also argued that neither the cause of action nor the nature of the suit will change if the application is allowed; and that the Court below erroneously dismissed the application for amendment.

It is to be seen that the suit is of the year 2011 and evidence of both sides is over. At the stage of arguments after conclusion of trial, present application is filed. The proviso to Order 6 Rule 17 CPC says that no application for amendment shall be allowed after the trial has commenced, unless the Court comes to the conclusion that despite due diligence, the party could not have raised the matter before the commencement of trial.

A perusal of the affidavit in support of the application also does not contain the averment stating that inspite of due diligence

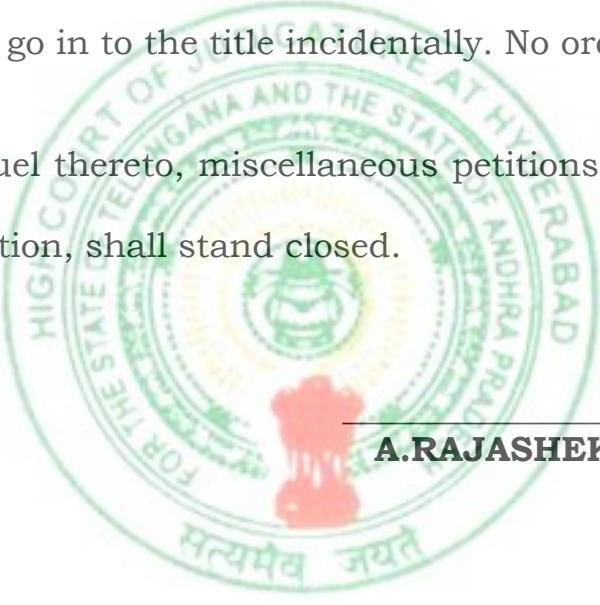
they could not have raised the issue before commencement of trial.

The trial Court has considered the same and by relying on the Judgment rendered in ***Buragapu Meenakshi v. Satya Panigrahi and another (2014 (6) ALT 599)***, dismissed the application.

In view of the aforesaid facts and circumstances, I do not see any merits in the CRP. Accordingly, the Civil Revision Petition is dismissed. However, even in a suit for injunction it is open for the Court below to go in to the title incidentally. No order as to costs.

As a sequel thereto, miscellaneous petitions, if any, pending in the writ petition, shall stand closed.

20.08.2018
t k.



A.RAJASHEKER REDDY, J