

SMT. JUSTICE T. RAJANI

CIVIL REVISION PETITION No.3505 OF 2018

ORDER:

The present Civil Revision Petition is filed, under Article 227 of the Constitution of India, by the petitioner - defendant against the order, dated 16.03.2018, passed in I.A. No.188 of 2018 in O.S. No.231 of 2009, by the learned Additional Senior Civil Judge, Srikakulam, by virtue of which, the trial Court allowed the petition filed by the respondent - plaintiff under Order VI, Rule 17 of the Code of Civil Procedure, 1908, seeking amendment of short cause title and full cause title of the plaint.

2. Heard learned counsel for the petitioner and learned counsel for the respondent.

3. The amendment sought for was to add the Firm, of which the petitioner herein is the Managing Partner, as a party to the suit. The learned counsel for the petitioner contends that addition of party to the suit would result in lot of prejudice to the petitioner, who is defendant in the suit. He also relies on the judgment of this Court in **Muthukur Gram Panchayat, SPSR Nellore District v. Kakuturu Ramesh Reddy¹**, wherein the Court considering that due diligence was not exercised by the parties, set aside the order which allowed the amendment of a plaint. As against the said decision, learned counsel for the respondent relies on the judgment rendered by the Hon'ble Supreme

¹. 2014 (1) ALD 444

Court in **Gurbaksh Singh v. Buta Singh**², wherein lack of due diligence was also taken note of and by considering that amendment, which was sought for by the petitioner therein, did not change the character and nature of the suit and did not introduce any fresh ground, upheld the order allowing the amendment petition.

4. In this case also, it can be seen that the plaint nonetheless contains an averment that the defendant is a Managing Partner of Das and Partner Firm and he approached the plaintiff and borrowed an amount of Rs.4,00,000/-. Hence, the basic facts, which constitute the cause of action, were mentioned in the plaint. The only lapse in not adding the Firm as a party to the suit cannot turn to their disadvantage.

5. Hence, in view of the above observation, this Court opines that the impugned order needs no interference.

6. Accordingly, the present Civil Revision Petition is dismissed, confirming the order under challenge. No order as to costs.

Consequently, Miscellaneous Petitions, if any, pending in the present revision stand closed.

SMT. T. RAJANI, J

October 29, 2018

Mgr

². 2018 (3) ALD 186 (SC)