

HON'BLE SRI JUSTICE S.V.BHATT

CIVIL REVISION PETITION No.6057 of 2009

ORDER:

Heard Mr.Subodh for revision petitioners and Mr.Bala Subramanayam for respondents 1 and 2.

Defendants 8 and 9 are revision petitioners. Respondents 1 and 2 herein filed O.S.No.387 of 2004 for the relief of declaration and perpetual injunction.

Respondents 1 and 2 to bring on record a few subsequent events namely recording compromise arrived at and shown in I.A.No.470 of 2005 between respondents 1 and 2 and defendants 3 to 6, the issue of regularization order by Government in G.O.Ms.No.2168 dated 22.12.2006 have filed I.A.No.192 of 2009 under Order VI Rule 17 CPC for amending the plaint as stated in I.A.No.192 of 2009.

For brevity, I do not propose to refer in details of the proposed amendment. The trial Court through the order impugned in the Civil Revision Petition allowed I.A.No.192 of 2009. Hence, the Civil Revision Petition.

Mr.Subodh contends that the subsequent events firstly are matters of record and there is no need for seeking amendment of plaint. Secondly, the revision petitioners-defendants 8 and 9 are not parties and it is unintelligible why this amendment is

permitted by the trial Court, by referring to the events stated in the proposed amendment as subsequent events. He further contends that the trial since has commenced, the amendment ought not to have been considered. He prays for allowing the Civil Revision Petition by setting aside the order impugned in the Revision.

Mr.Bala Subramanayam contends that the suit was filed in the year 2004. Respondents 1 and 2 compromised with defendants 3 to 6, compromise resulted in regularization order vide G.O.Ms.No.2168, dated 22.12.2006. He places strong reliance on the reasons recorded by the trial Court and contends that no ground is made out warranting interference of this Court under Article 227 and prays for dismissing the revision.

As already noticed, the suit was filed in the year 2004. The compromise or the Government order is subsequent in point of time. The trial Court, on the nature of amendment and to meet the ends of justice, for allowing the amendment, after referring to the binding precedents, has held as follows :-

“So, according to the petitioner subsequent events has to be taken into consideration and the plaint has to be amended. The document filed by the petitioner is also showing subsequent event. On clear perusal of the suit docket order, PW.1 evidence was not completed. It is coming for cross-examination of PW.1. The Hon’ble Supreme Court decision submitted by the Senior Counsel is clearly directed the Lower Courts, the subsequent events shall be considered. In AIR 2003 (SC) the Supreme Court clearly directed that Court bound to

take notice on subsequent events and mould reliefs. Hence, as per the above Hon'ble Supreme Court directions, the petition is allowed and the petitioner is permitted to amend the plaint."

The revision petitioners are resisting the suit claim. Firstly, it is to be noted that the revision petitioners are not parties to the compromise. It is settled law that the compromise decree is nothing but giving the seal of Court to a contract arrived at between the parties. In other words, the compromise decree cannot bind third parties to the contract or compromise.

Respondents 1 and 2 have satisfied the trial Court that these subsequent events have bearing on the pleadings in the plaint or the cause of action and if allowed, no prejudice occasions to revision petitioners herein.

After perusing the record, I am satisfied that the order of the trial Court permitting respondents 1 and 2 to incorporate subsequent events through the proposed amendment does not warrant interference under Article 227 of the Constitution of India. The revision fails and is accordingly dismissed.

The dismissal of revision or the order in I.A.No.192 of 2009 cannot be understood as this Court accepting the case of respondents 1 and 2 on merits. The issues as and when are taken up for trial and consideration, each one of the issues is considered independently in accordance with law and findings recorded by the trial Court.

The revision fails and is accordingly dismissed with the above observations. No order as to costs.

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

S. V. BHATT, J

Dt: 05-09-2018
Prv

