

HON'BLE SRI JUSTICE S.V. BHATT

C.R.P.No.2405 OF 2011

ORDER:

Heard Mr.K.SMurthy for revision petitioners and Mr.SSubba Reddy for 4th respondent-Tirupati Urban Development Authority.

The plaintiffs in O.S.No.192 of 2006 are the revision petitioners. They filed I.A.No.139 of 2010 under Order VII Rule 17 CPC with the following prayer:

"Add para 8(a) as follows:

The plaintiffs submit that the Hon'ble Court direct the defendants not to demolish the plaint schedule property till the disposal of the interim application, but 3rd defendant disobeying Hon'ble Court order and demolished the building plaint 'B' schedule property. At the time of demolishing the plaint 'B' schedule property the 3rd defendant promised to allot alternative site to plaintiff like wise the 3rd defendant promised to allot to the third parties whose properties was demolished on the same day. Subsequently the 3rd defendant allotted sites to Smt. Rukmanamma and Smt.Rangamma, but wantonly the 3rd defendant did not allot alternative site to the plaintiff as promised on the date of demolition of the property during the pendency of the suit and the 3rd defendant demolished the plaintiff's property. The plaintiffs seek alternative reliefs, restore the possession of the B-schedule property or allot alternative site to plaintiffs as the plaintiff is landless poor except the plaint schedule property. The plaintiffs have no other properties.

"Add the following after para 17 in the relief portion as e & f:

- e) restore the possession of the B-schedule property or
- f) direct the defendant to allot alternative site to the plaintiff".

It is stated in the affidavit filed in support of I.A.No.139 of 2010 that the petitioners occupied the plaint schedule property and constructed asbestos sheet in plaint 'B' schedule and the revenue authorities have also granted patta. The respondents demolished the building in plaint 'B' schedule property and promised to provide alternative site. Since the respondents demolished the building

during the pendency of the suit, the petitioners pray for amendment of the plaint as stated above.

The respondents opposed the application and denied to have demolished the building and providing alternative site to the petitioners. As there is no relief in the pleadings regarding the above, the petitioners are not entitled to the relief prayed for. The petitioners have not paid the Court fee for the alternative relief and there is no limitation to seek amendment of the plaint.

Through the order under revision, the trial Court rejected the request of revision petitioners holding that in the absence of any pleadings in the plaint, the petitioners cannot be permitted to amend the prayer with regard to alternative relief of providing alternative site. Hence, the revision.

I have perused the order under revision and also the plaint. This Court is in agreement with the findings recorded by the trial Court. No ground for interference under Article 227 of the Constitution of India is made out.

The revision fails and is, accordingly, dismissed. The trial Court considers disposing of the suit within three months from the date of receipt of a copy of this order. There shall be no order as to costs.

Pending miscellaneous petitions, if any, stand closed.

04th October, 2018
Lrk m

S.V.BHATT, J