

HON'BLE SRI JUSTICE D.V.S.S. SOMAYAJULU

CRP No.680 of 2014

ORDER:

This Civil Revision Petition is filed questioning the order dated 07.08.2013 in IA No.1 of 2013 in OS No.61 of 2012 passed by the Junior Civil Judge, Prathipadu.

The application IA No.1 of 2013 was moved by one Vaddi Nagamani, who is the defendant in the suit. She sought a direction in the application filed under Section 151 CPC to the plaintiff to take steps for amendment of her name as Vaddi Satya instead of Yenuganti Satya as shown in the plaint. This was opposed by the respondent/plaintiff.

The lower Court passed the impugned order and directed that the surname of the respondent be corrected as 'Vaddi' instead of 'Yenuganti'. This order is impugned in the revision.

This Court has heard Sri A.V.K.S. Prasad, learned counsel for the revision petitioner/plaintiff, who submitted that the defendant cannot seek an amendment of the plaint. In addition, he submits that the Court passed an order which is not prayed for at all. The respondent did not appear despite notice.

This Court after perusing the material papers and after hearing the learned counsel for the revision petitioner has to agree with the submissions made. A plaintiff is the dominant litus. He chooses to sue whom he wants. He runs a risk if he sues a wrong person. But at the same time, he cannot be compelled to amend his plaint at the defendant's request. This will lead to judicial chaos. It is impermissible legally. A learned single Judge of this Court in **B. Srihari Rao v. M. Ramadevi** held that it will lead to horrendous/abhorrent circumstances.

In addition, the prayer was for a direction to the plaintiff to 'take steps' to amend the plaint. The lower Court directed the amendment itself to be carried out. This shows a clear non-application of mind.

Thus, on both the grounds urged, the Civil Revision Petition is allowed. The impugned order is set aside and IA No.1 of 2013 is dismissed. In the circumstances of the case, there shall be no order as to costs.

Miscellaneous Petitions, if any pending in this revision shall stand closed.

D.V.S.S. SOMAYAJULU, J

Date: 27.12.2018

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