

HON'BLE SRI JUSTICE S.V. BHATT

C.R.P.No.2941 OF 2012

ORDER:

Heard Mr.K.Ashok Reddy for revision petitioner. Though notice is served on 1st respondent, none appears.

The plaintiff/1st respondent herein filed A.S.No.06 of 2009 against the decree and judgment in O.S.No.198 of 1997. The 1st respondent through the instant application prays for permission to sign and verify the plan and amended schedule. The revision petitioner opposed the prayer and the gist of the objections reads thus:

The revision petitioner states that the plaint underwent several amendments and I.A.No.405 of 2002 filed by plaintiff for amendment of boundaries was dismissed by the appellate Court. On revision in C.R.P.No.340 of 2006, this Court permitted the 1st respondent to carry out the amendment. It is stated that the plaintiff has not carried out amendment as per the order of this Court and wrongly represented that he had carried out the amendment. The amended copies of fair plaint were not given to the revision petitioner or to his counsel. It is stated that by the date of fair copy of plaint dated 04.03.2005, the order dated 08.02.2006 in C.R.P.No.340 of 2006 was not passed. It is further stated that since the amendment is not carried out in the plaint dated 20.10.1997, the question of correcting the mistake in verification of the suit map does not arise and the evidence that is let in by the plaintiff becomes *non est* and had to be eschewed from consideration while deciding the appeal.

The learned trial Judge through the order impugned in the revision permitted the 1st respondent to attend to the deficiencies noted in the plaint and the plan appended to the plaint.

Mr. Ashok Reddy contends that the 1st respondent filed the suit in the year 1997. This Court, on 08.02.2006, ordered C.R.P.No.340 of 2006 permitting the 1st respondent to amend the plaint. In the case on hand, neither the amendment is carried out nor are the copies of amended plaint served on the revision petitioners herein. The present application is filed nearly after six years from the date of disposal of C.R.P.No.340 of 2006. After the suit is disposed of, the prayer ought not to have been entertained by the Appellate Court.

I have perused the record and noted the submissions.

Prima facie, it appears that the 1st respondent did not comply with the requirements under Order VI Rule 18 CPC and the dates referred to in the order impugned do not appear to be correct inasmuch as fair copy of the plaint date is referred as 04.03.2005. This could not have been corrected inasmuch the revision was disposed on 08.02.2006. Further, it is rightly contended that if at all the amended plaint is conforming to the requirements of Rule 18 and if was really filed into Court, the filing could be treated and accepted if copy of the amended plaint is served on the contesting respondents. In the absence of such findings after the suit is disposed of, entertaining this request when the appeal is posted for arguments, is completely misconceived.

In the considered view of this Court, the Appellate Court exercised its jurisdiction which is not available at this stage of the matter.

For the above reasons, the order under revision is set aside. The revision is allowed. The Appellate Court is directed to dispose of appeal within eight weeks 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.

05th September, 2018

Lrkm



S.V.BHATT, J

