

HON'BLE SRI JUSTICE S.V. BHATT

C.R.P.No.4116 OF 2012

ORDER:

Heard Mr.C.Subodh for petitioners. No representation for respondent in spite of service of notice.

The revision petitioners are the plaintiffs. The suit is filed for perpetual injunction restraining the respondent from interfering with petitioners' possession and enjoyment of plaint schedule property. The petitioners filed I.A.No.316 of 2012 under Order VI Rule 17 CPC. The gist of the affidavit is that the respondent since denied the right and title of revision petitioners, the revision petitioners are interested in seeking declaration of right and title. Hence, the present petition.

The learned trial Judge has given the following reasons:

- (i) the petition is filed after written statement was filed by the respondent.
- (ii) the suit is at the stage of cross-examination of P.W.1.
- (iii) The application is filed as delay tactics.

The reasons are noted and after perusing the record, this Court is of the view that with a view to settling the disputes between the parties vis-à-vis the subject matter of plaint, the learned trial Judge ought to have allowed the application. The amendment even if is allowed is not substantially changing the cause of action etc.

For the above reasons, the order under revision is set aside. Revision is allowed. The revision petitioners are directed to file

amended copy of plaint within two weeks from today by enclosing a copy of this order. Thereafter, the respondent is given four weeks time for filing additional written statement. The trial Court considers disposing of the suit as expeditiously as possible, preferably within three months after the written statement is filed and within the time permitted by this Court. There shall be no order as to costs.

Pending miscellaneous petitions, if any, stand closed.

S.V.BHATT, J

06th September, 2018
Lrkm



