

THE HON'BLE DR.JUSTICE SHAMEEM AKTHER

CIVIL REVISION PETITION No.5549 of 2018

ORDER:

This Civil Revision Petition, under Article 227 of the Constitution of India, is filed by the petitioner/plaintiff, challenging the order, dated 30.04.2018, passed in I.A.No.138 of 2018 in O.S.No.28 of 2012 by the Principal Junior Civil Judge, Gajwel, whereby, the petition filed by the petitioner/plaintiff under Order VI Rule 17 read with Section 151 of C.P.C. to amend the pleadings in the plaint, was dismissed.

2. Heard the learned counsel for the petitioner/plaintiff, the learned counsel for the respondents/defendants and perused the record.

3. The learned counsel for the petitioner/plaintiff would contend that the petitioner/plaintiff is an illiterate person. His earlier counsel did not guide him in proper way. Hence, amendment to the pleadings in the plaint is required, which are essential to prove the suit claim, became necessary. The Court below erroneously dismissed the subject interlocutory application negating the relief claimed and ultimately prayed to allow the Civil Revision Petition by setting aside the order under challenge.

4. On the other hand, the learned counsel for the respondents/defendants opposed the relief sought by the petitioner/plaintiff and contended that the petitioner/plaintiff has been filing applications one after the other in order to drag on the proceedings. The amendment sought is with regard to the addition of land admeasuring Ac.0.02¼ guntas in the plaint schedule and adding the relief of mesne profits in prayer petition, which is a material one

changing the cause of action and nature of suit, which is not permissible under law, and ultimately prayed to dismiss the Civil Revision Petition by confirming the order under challenge.

5. In view of the above rival contentions, the only point that arises for determination in this Civil Revision Petition is whether the petitioner/plaintiff can be permitted to amend the pleadings in the plaint.

6. It is contended on behalf of the respondents/defendants that there is specific mention in the pleadings that Ac.0.02¼ guntas of land was sold away. Now the petitioner/plaintiff intends to delete the said sentence by way of amendment to the pleadings in the plaint. It certainly amounts to material alteration, which is impermissible under law. The suit is filed in the year 2012. After commencement of trial, the subject interlocutory application was filed. So, it is a belated one. The Court below elaborately dealt with the matter and passed a reasoned order. There is no infirmity in the order under challenge. There is no substance in the submissions of the learned counsel for the petitioner/plaintiff. The Civil Revision Petition is devoid of merit and is liable to be dismissed.

7. In the result, the Civil Revision Petition is dismissed.

There shall be no order as to costs.

Pending Miscellaneous Petitions, if any, shall stand closed.

Dr. SHAMEEM AKTHER, J

28th December, 2018
Bvv