

The Hon'ble Sri Justice C.V.Nagarjuna Reddy

Civil Revision Petition No.5474 of 2018

Date: 20.09.2018

Between:

Kella Venkata Ramana

.. Petitioner

and

Simma Appalanarasamma and 6 others

.. Respondents

Counsel for the Petitioner :

Mr.Jithender Rao Veeramalla

The Court made the following:



Order:

This Civil Revision Petition (CRP) is filed against Order, dated 24.07.2018, in IA.No.139 of 2018 in OS.No.224 of 2012, on the file of the Special Sessions Judge for Trial of Cases under SCs and STs (POA) Act –cum- XI Additional District and Sessions Judge, Visakhapatnam.

I have heard Mr.Jithender Rao Veeramalla, learned Counsel for the petitioner, and perused the record.

The petitioner filed OS.No.224 of 2012 for specific performance of agreement of sale, dated 19-10-2011, executed by the respondents/defendants in respect of a property situated in Survey No.1450 of Atchiyyammapeta, Visakhapatnam. The said suit was decreed on 30-06-2016. At the stage of execution, the petitioner filed the aforesaid IA for substitution of Survey No.60 in place of Survey No.1450 in the plaint, purportedly, under Section 152 of the Code of Civil Procedure, 1908 (CPC). This Application was dismissed by the lower Court with the observation that under Section 152 CPC, the petitioner can seek rectification of the typographical/clerical error in the Judgment or Decree only and that for correction of survey number, he has to file an application seeking amendment of the plaint schedule and for consequential correction in the Decree. The Court below has, accordingly, held that the IA was not maintainable.

After carefully considering the reasons assigned by the lower Court, I see no reason to interfere with its order assailed in this CRP. As rightly observed by the lower Court, the petitioner has to file an application for amendment of the plaint and also for correction of the Decree under the extant provisions of the CPC. Instead of doing so, the petitioner has invoked a wrong provision for amendment of the schedule in the plaint without seeking correction of the Decree.

Hence, the CRP is dismissed with liberty to the petitioner to file a fresh application in terms of the observations made above.

(C.V.Nagarjuna Reddy, J)

Dt: 20th September, 2018
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