

**HON'BLE SRI JUSTICE P.NAVEEN RAO**

**CIVIL REVISION PETITION NO.6198 OF 2018**

**DATE:31.12.2018**

Between:

Para Seethaiah, s/o. Veeraiah, Aged 53 years,  
Agriculturist, r/o. Kodad town and mandal,  
Suryapet district.

.... Petitioner/petitioner/  
plaintiff

And

Kodumuri Rambayamma w/o. Roshaiah,  
74 years, Kodad town and mandal, Suryapet  
District and others.

...Respondents/respondents/  
defendants



This Court made the following:

**HON'BLE SRI JUSTICE P.NAVEEN RAO****CIVIL REVISION PETITION NO.6198 OF 2018****ORDER:**

Petitioner is plaintiff in O.S.No.107/2009 on the file of Junior Civil Judge, Kodad. Suit was filed seeking perpetual injunction against the defendants. It appears that defendants in their written statement filed on 29.9.2009 opposed plaintiff's claim to ownership and possession. Recording evidence on both sides concluded. At the stage when suit was posted for arguments, plaintiff filed I.A.No.251/2018 under Order VI Rule 17 of C.P.C., praying to grant leave to amend pleadings and to incorporate declaration of title in the prayer apart from injunction. The same was dismissed by Principal Junior Civil Judge at Kodad. Hence this CRP was filed.

2. Record discloses that Respondents/Defendants filed their counter opposing prayer to amend pleadings and contended that the present petition is not maintainable. They contended that in order to drag on the suit proceedings, the plaintiff filed one petition after another. They asserted that the defendants specifically denied title and possession of the petitioner over the suit schedule property at several places in their written statement filed on 29.9.2009. However the petitioner failed to show any valid reason for not filing the amendment petition immediately after the written statement or before commencement of trial in the present suit.

3. Trial Court observed that petitioner did not assign valid reasons in support of the present petition and as to why he couldn't file the petition for amendment of plaint before commencement of trial. Court further observed that granting the prayer to amend plaint would change the nature of the suit.

4. Suit is of the year 2009. It appears, initially suit was filed to grant decree of injunction claiming himself as the owner of the suit schedule property. During the trial evidence on behalf of the plaintiff and defendants was recorded. Material on record would disclose that plaintiff earlier filed I.A.No.79 of 2016 to reopen his evidence and I.A.No.80 of 2018 to summon Mandal Surveyor, Kodad. Both petitions were allowed. Mandal Surveyor was examined as PW.7, plaintiff filed I.A.No.147 of 2017 to reopen the suit and I.A.No.148/2018 to summon the District Surveyor, Suryapet and Ex-VRO of Kodad. Both petitions were allowed. Ex VRO was examined as PW8. At this stage present petition is filed. In paragraph-6 of the affidavit filed in support of the I.A., plaintiff admits that defendants stated in their written statement that plaintiff should institute suit for declaration of title and recovery of possession. He would say that in order to o avoid future complications he was constrained to seek extensive amendments to plaint. As can be seen from material on record at various stages petitioner was indulging in filing applications, to reopen evidence to summon officials to depose on his behalf, etc.

5. As per Order VI Rule 17 of CPC, ordinarily it is not permissible to seek amendment of plaint after commencement of trial, but only on leave granted by the court and if the court is satisfied that in spite of due diligence the party could not have raised the issue before commencement of trial. Though Rule 17 vests discretion to allow the party to alter or amend pleadings, at any stage of the proceedings having regard to proviso, ordinarily the trial Court cannot allow such amendments after commencement of trial. Thus burden is heavy on the plaintiff to satisfy the trial court that he did not have the relevant material with him earlier in spite of exercising due diligence. At any

point trial court may exercise its discretion if it is satisfied that permitting such pleadings would not prejudice the opposite party, do not change the cause of action and allowing such amendments would avoid multiplicity of proceedings. As rightly noted by the trial Court, plaintiff did not exercise due diligence. He is aware of the opposition taken to the plea, as early as in the year 2009 and failed to take steps to amend pleadings at the earliest point of time. Even assuming what is contended is valid and permissible, if the amendments are allowed it would change the whole complexion of the suit and therefore would prejudice the defendants. Further, suit is of the year 2009 and is at the stage of hearing. Allowing the application at this stage would amount to reopening of the suit and putting it back to the stage of recording evidence a fresh. Having regards to peculiar facts of this case, it is apparent that on one pretext or the other plaintiff is dragging on the suit proceedings.

6. Therefore, I do not see any error in the decision of the trial court warranting interference. Civil Revision Petition is accordingly dismissed. Pending miscellaneous petitions shall stand closed.

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**JUSTICE P.NAVEEN RAO**

Date: 31.12.2018

*Kkm*

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