

THE HON'BLE SRI JUSTICE U. DURGA PRASAD RAO

C.R.P. No.6278 of 2018

ORDER:

This C.R.P., is directed at the instance of the petitioner/plaintiff against the order dated 6.9.2018 in I.A.No.539 of 2018 in O.S.No.105 of 2013 passed by the VII Additional District Judge, West Godavari, Eluru dismissing the petition filed by the plaintiff under Order 6 Rule 17 CPC read with Rule 29 of Civil Rules of Practice seeking permission of the Court to amend para 9 and prayer (A) of the plaint by deleting the word 'coercion' and add the word 'fraud and misrepresentation'.

The suit in O.S.No.105 of 2013 was filed by the plaintiff seeking cancellation of sale deed dated 21.1.2012 registered as document No. 264 of 2012 of S.R.O., Chinthalapudi, West Godavari which was allegedly obtained from the plaintiff by defendant in coercion and fraudulently. The defendants are contesting the Suit. While so, the plaintiff filed I.A.No.539 of 2018 under Order 6 Rule 17 CPC seeking permission of the Court to amend para 9 and prayer A of the plaint by deleting the word 'Coercion' and inserting the words 'fraud and misrepresentation' in its place. The said petition was dismissed by the Trial Court on the ground that the word 'coercion' is completely different from the phrase "fraud and misrepresentation" and in such event, if the plaintiff is permitted to amend the plaint as prayed, the nature of the Suit will be completely changed. Hence, the CRP.

Heard the learned counsel for the petitioner.

As can be seen from the plaint in O.S.No.105 of 2013, it is the case of the plaintiff that he is the absolute owner of the plaint schedule property which he obtained from his brother one Nidumoly Janakiramayya under registered settlement deed vide document No.4413 of 2007, SRO, Chintalapudi, dated 3.11.2007. It is his further case that for his personal need, the plaintiff borrowed a

sum of Rs. 5,00,000/- from the defendant in the month of January, 2012 and on the interest @ 36% per annum and executed a mortgage deed in favour of the defendant.

