

THE HON'BLE SRI JUSTICE S.V.BHATT

C.R.P.No.1580 of 2013

ORDER:

Heard Mr.Chidambaram for revision petitioner.

No representation for respondents.

The request of revision petitioner for amendment of plaint made for in I.A.No.495 of 2012 in O.S.No.291 of 2004 is rejected by the trial Court. Hence, the Civil Revision Petition.

The revision petitioner contends that through the proposed amendment, neither the frame of the suit is changed nor the prayers to which the revision petitioner is not entitled to is included. Through the proposed amendment, the dispute between the parties is comprehensively included. No prejudice will happen if the amendment is permitted.

The learned trial Judge through the order impugned in the Civil Revision Petition has considered each one of the aspects which have relevance to the prayers made by the revision petitioner for amendment of plaint. Let me first preface the proposed amendment which reads thus:

“The paragraph 11(a) may be amended as follows:

(a) Relief of declaration that the plaintiff is the absolute owner of item Nos.1 to 6 of the plaint schedule property and that ABMN lane is the exclusive lane of the plaintiff alone and for consequential relief of recovery of vacant possession of OPQR (81 square yards) and also site ABMN portion of the plaint plan (48 square yards) after removal of the shed construction by the defendants thereon and also

after removal of the earthen clods placed by the defendants therein as valued under Section 24(b) and Section 29 of A.P.C.F. and S.V.Act.

Value of the item Nos.1 to 6 of the plaint plan (540.4 square yards X Rs.600) comes to	Rs.3,24,240-00
Value of passage (48Sq.Y X Rs.600/-) comes to	Rs.0,28,800-00
Total	Rs.3,53,040-00
½ thereof comes to	Rs.1,76,520-00

On which a court fee of Rs.4226/- is payable under Section 24(b) of A.P.C.F & S.V.Act, 1956 and the same is deposited into the savings bank account of the Hon'ble court bearing No.10676847953 lying in SBI, Tanuku branch.

I, therefore pray that the Hon'ble court may be pleased to amend the plaint by adding paragraph 5(b) and 11(a) as stated above in the interests of justice. Else, I suffer irreparable loss and injury."

and juxtapose proposed amendment with the findings recorded by the learned trial Judge which read thus:

"On perusal of the entire plaint, written statement and evidence of the plaintiff side evidence, this Court does not find any pleading from the plaintiff side or the evidence that the respondents/defendants claimed ownership over the entire plots 1 to 6 or of the respondents nor it is the defence of the respondents that they are owners of plots 1 to 6. It is the defence of the defendants that AMBN lane is made for passage of the defendants and another one namely Ch.Ammaji only. When such is the pleadings of the parties to the suit and the evidence revolves around the same, this Court does not find any reason for the petitioner to file the petition at this stage seeking declaration of all plots 1 to 6 and no specific reason has been mentioned in the affidavit or in the arguments advanced by the leaned counsel for the petitioners except, taking into consideration the observation made by the Hon'ble High Court of A.P., in CRP 1315/2011 that if there existed dispute as to the boundaries or extent, he ought to have sought the relief of declaration of title. In the instant suit on hand the petitioner himself has categorically mentioned that

basing on the observation made by the Hon'ble High Court of A.P., he filed the petition.

The contention of the learned counsel for the petitioner is that mere amending the plaint does not change the structure of the suit and the said contention is rejected. The main suit is filed only in respect of APQR and ABMN and present relief is in respect of the whole property of the plaintiff as shown in plots 1 to 6 in the plaint plan and there is no cause of action for seeking declaration of plots 1 to 6. If the petition is allowed, the nature of the suit will be changed and denova trial is to be conducted. Hence, the petition lacks merits and deserves to be dismissed.”

On perusal of the order impugned in the Civil Revision Petition, this Court concludes that the revision petitioner has not made out a case warranting interference of this Court under Article 227 of Constitution of India.

The Civil Revision Petition fails and accordingly is dismissed. No order as to costs.

The trial Court is directed to dispose of the suit as expeditiously as possible, within two months from the date of receipt of copy of this order.

Miscellaneous petitions, if any, pending, shall stand closed.

S. V. BHATT, J

Dt: 11.09.2018

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