

**In the High Court of Judicature at Hyderabad
for the State of Telangana and the State of Andhra Pradesh**

CIVIL REVISION PETITION Nos.7262 and 7347 of 2017

Between:

P.Ramalakshmi and another.

... Petitioners

and

G.Arvinada Reddy and others.

...Respondents

Date of Judgment Pronounced: 20-04-2018

Submitted for Approval:

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

1. Whether Reporters of Local newspapers may be allowed to see the judgments? Yes/No
2. Whether the copies of judgment may be marked to Law Reporters/Journals? Yes/No
3. Whether Their Ladyship/Lordship wish to see the fair copy of the Judgment ? Yes/No

CHALLA KODANDA RAM,J

*** THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM**

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% Dated 20.04.2018

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! Counsel for the petitioners : Mr.N.Aswartha Narayana

^ Counsel for the respondents : Mr.N.Ranga Reddy

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>HEAD NOTE:

? Cases cited:



THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

CIVIL REVISION PETITION Nos. 7262 and 7347 of 2017

COMMON ORDER:

These two Civil Revision Petitions are filed against separate orders, dated 23.11.2017, passed by the learned II Additional District Judge, Hindupur in I.A.Nos.164 and 165 of 2017 in O.S.No.26 of 2012.

Petitioners-plaintiffs filed the said suit for declaration of right and consequential relief of permanent injunction. They state that they purchased the suit schedule property with specific boundaries under registered sale deeds. In the said suit, they filed I.A.No.164 of 2013 for appointment of an Advocate Commissioner to note down the physical features of the suit schedule property with the help of Surveyor. The said I.A. was allowed and the Advocate Commissioner submitted his report, as per which, it came to know that the petitioners furnished wrong boundaries on eastern side and southern side of item Nos.1 and 2 of the plaint schedule. Thereafter, they obtained registered rectification deeds. Therefore, they filed I.A.Nos.164 and 165 of 2017 seeking to receive the documents and to amend the boundaries in the plaint schedule, respectively. Their case is that since the trial is not yet commenced, no prejudice would be caused to the respondents-defendants if the applications are ordered and the same would avoid further litigation between the parties. The respondents-defendants filed their counters opposing the

applications. They state that getting the deeds rectified based on the report of the Advocate Commissioner itself would destroy the case of the petitioners and further, the same would change the nature of the suit. After considering the respective submissions, the trial Court dismissed the said I.As.,

Learned counsel for the petitioners passionately pleads that by oversight, the boundaries in the plaint schedule were mentioned wrongly and on coming to know the correct boundaries, the petitioners have obtained rectification deeds and immediately approached the Court below seeking amendment of the plaint schedule and at any rate, as held by the Apex Court in catena of judgments that the amendment of the plaint or written statement can be sought at any time and exception is, the trial ought not to have commenced. He submits that as on date, the trial is not yet commenced and at any rate, the defendants would have an opportunity to file written statement and no prejudice would cause to them. In those circumstances, he prays for allowing the C.R.Ps.

Learned counsel for the respondents vehemently opposes the Civil Revision Petitions.

There is no dispute that I.A.No.165 of 2017 is filed to ensure the boundaries as mentioned in the suit schedule to be in conformity with the rectification deeds obtained by the petitioners. *Prima facie*, the said aspect shows that the petitioners were not aware of the very boundaries over which they seek to declare

their right at the time of filing the suit. As mentioned in the very plaint, the petitioners claim their right over the suit schedule property and they trace their title to the same with respect to the documents alleged to have been executed as far back as in 2014 and subsequent documents. While the defendants can take alternative pleas and even contradictory pleas so far as the plaintiffs are concerned, they are required to be definite of their case in every aspect. Various questions with respect to the *bona fides* of the plaintiffs that may arise would require to be considered and decided in the suit. Further, it is noticed that some of the defendants are of advanced age on the date of filing of the suit, and if the applications are allowed, definitely, it would cause prejudice to them.

In those circumstances, this Court is of the opinion that the trial Court rightly dismissed the applications and this Court is not inclined to interfere with the orders under challenge.

Hence, the Civil Revision Petitions are dismissed. It is made clear that since the suit is of 2016, the trial Court may dispose of the same, as expeditiously as possible.

Consequently, miscellaneous applications, if any shall stand dismissed. No costs.

CHALLA KODANDA RAM, J

Dt:20.04.2018

Note: L.R. copy to be marked.

kdl

