

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

Civil Revision Petition No.315 of 2019

ORDER:

This Civil Revision Petition, under Article 227 of the Constitution of India, is filed by the petitioner/plaintiff No.2, aggrieved by the order, dated 08.11.2018, passed in I.A.No.915 of 2018 in O.S.No.105 of 2013, by the I Additional District Judge at Khammam, whereby, the petition filed by the revision petitioner/plaintiff No.2 under Order VI Rule 17 of CPC seeking consequential amendment to the pleadings in the plaint as mentioned in the application, was allowed with a direction to the revision petitioner/plaintiff No.2 to file a neat copy with consequential amendment only in the cause title as "Plaintiff died through L.R./V.Krishna Veni" and with no amendment in the body of the plaint.

2. Heard the learned counsel for both the sides and perused the record.

3. The learned counsel for the revision petitioner/plaintiff No.2 would submit that the original plaintiff died. The revision petitioner/plaintiff No.2, being the daughter-in-law of the original plaintiff and as she got the suit schedule property under a Will Deed, dated 03.08.2011, is a necessary party to the proceedings. She sought permission to allow her to come on record and to make consequential amendments to the relevant portion of the plaint. The Court below directed the

revision petitioner/plaintiff No.2 to file a neat copy with consequential amendment only in the cause title as "Plaintiff died through L.R./V.Krishna Veni" and no amendment in the body of the plaint was allowed. Therefore, the impugned order is erroneous. The amendment sought would not change the nature of the suit. The Court below ought to have allowed all the consequential amendments sought and ultimately prayed to set aside the order under challenge and allow the revision petitioner/plaintiff No.2 to make all consequential amendments to the plaint, in addition to the amendment of the cause title of the plaint.

4. On the other hand, the learned counsel for respondents/defendants would contend that the proposed amendments would alter the nature of the suit. Though there are other legal heirs of the deceased original plaintiff, they are not brought on record. Allowing the amendments sought by the revision petitioner/plaintiff No.2 would change the nature of the suit. The Court below is justified in dismissing the subject interlocutory application in respect of making amendments to the body of the plaint and ultimately prayed to sustain the order under challenge and dismiss the Civil Revision Petition.

5. In view of the submissions made by the learned counsel for both the sides, the point that arises for determination in this Civil Revision Petition is "*whether the revision*

petitioner/plaintiff No.2 can be allowed to make the amendments to the plaint as sought for?"

6. The original suit is filed for perpetual injunction and cancellation of the sale deed. Admittedly, the revision petitioner/plaintiff No.2 is not the successor in interest of the deceased original plaintiff. She is claiming the suit schedule property under a Will Deed, dated 03.08.2011. She has not made the children of the deceased original plaintiff as parties to the suit. The Court below allowed the revision petitioner/plaintiff No.2 to come on record vide order, dated 28.09.2018, passed in I.A.No.666 of 2018. The subject interlocutory application in I.A.No.915 of 2018 in O.S.No.105 of 2013 is filed to allow the revision petitioner/plaintiff No.2 to make consequential amendments to the pleadings of the plaint. The consequential amendments sought to be made to the pleadings of the plaint would alter the nature of the suit. Moreover, the descendents of the deceased original plaintiff are not brought on record. The question whether the revision petitioner/plaintiff No.2 succeeded the suit schedule property by way of Will Deed, dated 03.08.2011, also cannot be determined in the subject suit. Under these circumstances, the Court below did not commit any error in disallowing the consequential amendments sought to be made by the revision petitioner/plaintiff No.2 to the pleadings of the plaint. The findings of the Court below are not perverse. There is nothing

to take a different view. The Civil Revision Petition is devoid of merit and is liable to be dismissed.

7. In the result, the Civil Revision Petition is dismissed. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this Civil Revision Petition, shall stand closed.

Dr. SHAMEEM AKTHER, J

05th December, 2019
Bvv

