

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

C.R.P.No.361 of 2019

ORDER:

This Revision is filed under Article 227 of the Constitution of India challenging the order dt.21.01.2019 in I.A.No.715 of 2018 in O.S.No.152 of 2014 of the III Additional district Judge, Karimnagar.

2. Petitioners are defendants 3 and 4 in the above suit.

3. Respondents 1 and 2 filed the said suit initially on 26.08.2014 for a Perpetual Injunction restraining the petitioners and other defendants from interfering with their alleged possession and enjoyment of the suit schedule property.

4. Subsequently, respondents 1 and 2 filed an appeal before the Revenue Divisional Officer, Peddapalli vide Appeal in File No.B2/4074/2015 which was dismissed.

5. Thereafter, respondents 1 and 2 preferred Revision before the Joint Collector, Peddapalli, who allowed the Revision on 25.08.2018 in File No.D1/98/2017.

6. It is contended by the respondents 1 and 2 that after the order was passed by the Joint Collector, petitioners and other defendants tried to interfere with their possession and enjoyment of the property and they also denied the title of the respondents 1 & 2, and so it became necessary to seek amendment of the plaint and request for grant of relief of declaration of title. They contended that this won't

prejudice the petitioners and other defendants, and they offered to pay the Court fee on the amended relief also.

7. Counter affidavit was filed by the 1st petitioner opposing the said application stating that he had filed W.P.No.33220 of 2018 before this Court and on 17.09.2018 in I.A.No.1 of 2018 this Court directed maintenance of *status quo* with regard to entries in Revenue Records and also restrained the parties from alienating the property in dispute. He also denied that after passing of the orders by the Joint collector, petitioners have tried to interfere with the possession of the respondents 1 & 2 or denied their title. According to them they had denied title and possession of the respondents 1 and 2 in the written statement filed by them in O.S.No.78 of 2001 and O.S.No.8 of 2002 on the file of the Court of Senior Civil Judge, Peddapalli in 2001 itself, and the respondents 1 and 2 were aware of it and so the proposed amendment is barred by limitation.

8. By order dt.21.01.2019, the Court below allowed I.A.No.715 of 2018 after referring to the contentions of the parties. The Court below observed that the trial has not yet commenced and if amendment of the plaint, by adding the relief of declaration of title is permitted, no prejudice would be caused to the petitioners and other defendants. It also observed that mere allowing of the amendment would not amount to granting the relief itself and the merits of the proposed amendment cannot be gone into in the I.A.

9. Assailing the same, this Revision is filed.

10. Counsel for the petitioners contended that the Court below ought not to have allowed the application for amendment of the plaint and ought to have rejected it on the ground that the denial of title by the petitioners and other defendants was in 2001 itself.

11. This contention is without any merit because as is rightly held by the Court below the correctness of the case set up in the proposed amendment cannot be gone into while deciding whether or not to permit the amendment. No prejudice would be caused to the petitioners and other defendants since trial of the suit has not yet commenced and the petitioners and other defendants would have the opportunity of filing additional written statement.

12. I therefore do not find any error of jurisdiction in the order passed by the Court below warranting interference of this Court under Article 227 of the Constitution of India.

13. Accordingly, this Civil Revision Petition fails and it is dismissed. No order as to costs.

14. Consequently, miscellaneous petitions pending if any shall stand dismissed.

M.S. RAMACHANDRA RAO, J

27th February, 2019.

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