

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

CIVIL REVISION PETITION No.1467 of 2019

ORDER :

This Revision is filed challenging the order dt.30-04-2019 in I.A.No.93 of 2019 in O.S.No.76 of 2014 of the Junior Civil Judge at Maheshwaram, R.R. District refusing to permit the petitioner/10th defendant and defendant Nos.1 to 9 and 11 to 14 to amend the written statement.

2. The ground relied upon by the Court below in refusing to permit the petitioner to amend the written statement was that the suit was filed in 2014 for a perpetual injunction, written statement was filed on 24-07-2013 by 3rd defendant, which was adopted by defendant Nos.1, 2, 4, 5, 7 and 8, and 10th defendant did not file a written statement.

3. It held that on 23-09-2013 issues were settled and trial commenced on 19-08-2016 and the matter is coming up for the evidence of D.W.1, and at that stage, this application has been filed by 10th defendant himself and other defendants. It held that petitioners did not show that in spite of due diligence, they could not have raised the matter before the commencement of trial; and the suit being of the year 2013, its disposal cannot be further delayed by permitting amendment to the written statement.

4. Though learned counsel for petitioner sought to contend that the view of the trial Court is not correct, and cited decision in **Sajjan Kumar Vs. Ram Kishan**¹, the said decision cannot be relied upon by petitioner. The suit in the said case was filed before 01-07-2002 when Order VI Rule 17 C.P.C. was amended by C.P.C. Amendment Act 22 of 2002 introducing proviso to Order VI Rule 17 C.P.C. which prohibited amendments to be made after trial commences unless the Court comes to the conclusion that in spite of due diligence, the party could not have raised the matter before commencement of trial.

5. In my considered opinion, petitioner did not give valid reasons seeking for amendment after the trial commenced and why he could not claim before the trial started. Therefore the Court below was right in rejecting the application for amendment.

6. For the aforesaid reasons, the Civil Revision Petition is dismissed. No costs.

7. As a sequel, the miscellaneous petitions, if any pending, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 24-07-2019

Vsv

¹ (2005) 13 SCC 89