

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

**CIVIL REVISION PETITION NO.1865 OF 2016**

**ORDER:**

This Revision is filed under Article 227 of the Constitution of India challenging the order dated 29.02.2016 in I.A.No.978 of 2015 in O.S.No.52 of 2013 on the file of the I Additional District Judge, Khammam, refusing permission to amend the plaint by adding properties in the suit schedule.

The trial Court rejected the said application on the ground that the application itself was not maintainable as it was filed after the evidence of the petitioner was completed, that D.W.1's evidence was also over and at the time of cross examination of D.W.2. It observed that proviso to Rule 17 of Order VI of the Code of Civil Procedure, 1908, prohibits amendments unless the party seeking amendment establishes that in spite of due diligence he could not be allowed to amend before the trial commenced.

In the affidavit filed along with this application, the petitioner merely stated that her late father purchased number of properties in his own name and also in the name of the first defendant and recently upon verification of the properties of her father, she learnt about the other properties. She also stated that she had no knowledge about these properties and she came to know about them later.

Petitioner was expected to exercise due diligence by including all the properties of her father before filing of the suit or at least seek amendment by inclusion of properties before commencement of trial.

In the instant case, due diligence is absent. Therefore, the Court below is right in dismissing the application.

Revision fails and is dismissed.

There shall be no order as to costs. Miscellaneous applications, if any, pending shall stand dismissed.

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**(M.S.RAMACHANDRA RAO, J)**

9<sup>th</sup> August 2019  
RRB

