

HONOURABLE Dr. JUSTICE SHAMEEM AKTHER

CIVIL REVISION PETITION No.2281 of 2019

ORDER:

This revision is filed under Article 227 of the Constitution of India aggrieved by the order dated 18.06.2019 passed in IA.No.217 of 2019 in OS.No.20 of 2012 by the Senior Civil Judge, Jangaon, wherein the application filed by the revision petitioners/plaintiffs to make certain amendments to the typographical errors was dismissed.

2. Heard both sides and perused the material on record.

3. Learned counsel for the revision petitioners submits that the correction/amendment sought would not alter the nature of the suit and neither the same would give a different cause of action and inadvertently those mistakes have crept in. Having noticed the same, the application was filed to amend as prayed for. However, the Court below without there being any justifiable reason was pleased to dismiss the application, which is erroneous and ultimately prayed to set aside the order impugned.

4. On the other hand, learned counsel for the respondents would submit that the amendment sought changes the nature of the suit and it gives a different cause of action and under the given circumstances, the Court below was justified in dismissing the application and ultimately, supported the impugned order.

5. In view of the submissions made on both sides, the point for consideration is: "Whether the impugned order dated

18.06.2019 passed in I.A.No.217 of 2019 is liable to be set aside and I.A.No.217 of 2019 can be allowed as prayed for?”

6. The petitioners have sought the following amendments:

- (i) That at para No.III after the word in the plaint husband of defendant No.5, the No.5 is to be replaced with '1'. “The 4th line the defendants 1 to 8 are the third parties to the plaintiff and also the suit schedule property” is to be deleted.
- (ii) That at para-V the entitlement of shares are also wrongly typed. The defendants 1 to 3 to be corrected as defendant No.1 and after entitled to 12/100 paisa share and defendants 2 and 3 are entitled to 44/100 each share in the suit schedule property. The word after 1/4th share “each of 1/3rd” is to be deleted by mentioned each of 44/100th share.
- (iii) That at para-VII at seventh line 1 to 3 is to be replaced with 1 and 2 at 8th line 1 to 4 is to be replaced with 1, 2 and 4.
- (iv) That at para-VIII at 6th line 1 to 3 is to be replaced with 1 and 2.
- (v) That at para-IX at 4th line after 1 and 2 “through” is to be corrected as “though” at 6th line No.4 the following need to be added. That the defendant No.3 Annam Aparna Reddy who is none other than own sister of defendant No.2, she is a coparcener to the joint family and she is a class-I heir and she

is entitled to 44/100 share in the suit schedule properties and she is not resorted to sell any extent of land, the same is borne out by very alleged sale deeds. As her rights are involved and are to be decided, she is necessary and proper party, as such she added as party defendant No.3 to the suit. At 6th line 1 to 4 is to be replaced with 1, 2 and 4, at 11th line 1 to 8 is to be replaced as 1, 2 and 4 to 8.

- (vi) That at para-XI at 2nd line 1 to 4 is to be replaced with 1, 2 and 4, at 5th line 1 to 4 is replaced with 1, 2 and 4, at 7th line 1 to 4 is to be replaced with 1, 2 and 4.
- (vii) That at para-XVI which related to relief at (b) second line 1/3rd is to be replaced with 44/100 at (c). At 3rd line 1/3rd is to be replaced with 44/100.”

7. The above amendments sought to be made would reveal that some typographical errors have crept in, in the plaint while drafting inadvertently and having noticed the same, the petitioners have filed the present application. The above proposed amendments would not change the nature of the suit nor give a different cause of action. Now the suit is coming up for cross examination of DW.1.

8. Learned counsel for the revision petitioners has conceded that the revision petitioners/plaintiffs have completed their evidence in the suit and there is no need to examine

further witnesses or to recall any of the witnesses examined on their behalf, except with regard to the correction of numericals of the defendants as well as allocation/entitlement of the shares. As submitted by the learned counsel for the revision petitioners if the amendments sought are made, there will be no material change in the pleadings as well as in the evidence. Under the given circumstances, the Court below ought to have allowed the application. The proposed amendments are also necessary to determine the entitlement of the parties to the litigation.

9. Accordingly, the Civil Revision Petition is allowed and the impugned order dated 18.06.2019 is set aside and the I.A.217 of 2019 is allowed as prayed for. No costs.

Miscellaneous petitions, if any, shall stand closed.

Dr. SHAMEEM AKTHER, J

Date: 29.10.2019
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