

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

CRP.No.4017 of 2018

ORDER:

Heard counsel for the petitioner and counsel for respondents 1 to 10 & 12.

2. Counsel for petitioner states that the 11th respondent is the petitioner's mother and he is giving her up.

3. This Civil Revision Petition is filed under Article 227 of the Constitution of India challenging the order dt.06.06.2018 in I.A.No.831 of 2017 in O.S.No.320 of 2011 on the file of the XIV Additional District & Sessions Judge, Ranga Reddy at L.B. Nagar, Hyderabad.

4. Petitioner had filed the above suit for partition of the plaint A to E schedule properties into six equal shares and for delivery of possession of one such share to him.

5. Before the trial commenced, he filed I.A.No.831 of 2017 seeking amendment of plaint by adding in plaint E-schedule three more properties and also to correct the extent of item-1 of schedule A, and to correct the survey number of D-schedule property.

6. This application was opposed by the respondents contending that it is filed belatedly and that the said properties cannot be partitioned.

7. By order dt.06.06.2018, the Court below dismissed the said application stating that Item 1 & 2 properties cannot be included in the E-schedule because they stand in the name of wives of respondents 4, 6 & 8, who are not parties to the suit, and it also refused to add Item 3 to E-Schedule on the ground that petitioner did not explain why he did not mention the said property in the plaint at the time of filing of the suit.

8. Challenging the same, this Revision is filed.

9. I have noted the contentions of both sides.

10. At the time of considering application for amendment, the Court cannot go into the correctness of the plea set up in the application seeking amendment of the pleadings. So whether the properties proposed to be included are available for partition or not, and whether they belong to wives of respondents 4, 6 & 8 cannot be gone into at this stage. Also fact that item 3 was not mentioned originally in the plaint is also no ground to refuse amendment.

11. Admittedly trial in the suit has not yet commenced and so no prejudice would be caused to the respondent if the amendments sought for by the petitioner are allowed, since they would get an opportunity to amend their written statement or file additional written statement taking appropriate steps. Therefore, the impugned order cannot be sustained.

12. Therefore, this Civil Revision Petition is allowed; the impugned order dt.06.06.2018 in I.A.No.831 of 2017 in O.S.No.320 of 2011 on the file of the XIV Additional District & Sessions Judge, Ranga Reddy at L.B. Nagar, Hyderabad is set aside; and the said I.A., is allowed. No order as to costs.

13. Consequently, miscellaneous petitions pending if any, shall stand closed.

M.S. RAMACHANDRA RAO, J

12th April, 2019.

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