

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

CRP.No.2209 of 2014

O R D E R:

Heard Sri S.Sridhar, Counsel for revision petitioner and Sri Hamsa Raj, counsel for 1st respondent.

2. This Revision is filed under Article 227 of the Constitution of India challenging the order dt.22.04.2014 in I.A.No.479 of 2012 in O.S.No.4 of 2012 of the VI Additional District Judge at Siddipet.

3. Petitioner herein is the 1st defendant in the above suit.

4. The 1st respondent herein filed the said suit against the petitioner and another for perpetual injunction restraining the petitioner and 2nd respondent from alienating the suit schedule plots.

5. It is the contention of the 1st respondent in the suit that petitioner owned 139 plots of which he offered 136 plots to the 1st respondent on 09.03.2012 for sale and entered into an Agreement of Sale and also received part consideration, and though the 1st respondent had complied with all the terms and conditions of the said agreement, 1st respondent did not come forward to execute any sale deed; and instead sold 8 plots to third parties including some of the plots which the petitioner had promised to sell to the 1st respondent under the above Agreement of Sale dt.09.03.2012.

6. Written statement was filed by the petitioner admitting that he had entered into an Agreement of Sale with the 1st respondent on 09.03.2012. However, a plea was raised that it is not a valid agreement and is void as on the date of filing of the suit. It is also contended that 1st respondent did not perform his part of the contract.

7. Before trial commenced, 1st respondent filed I.A.No.479 of 2012 to amend the plaint by seeking in addition to the relief claimed in the suit, relief of specific performance also and to add additional pleadings in support of the said plea by way of amendment of the plaint. It is contended in the said application that there is need for amendment of the plaint and to seek the relief of specific performance in addition to the relief of perpetual injunction because if the 1st petitioner is made to file a separate suit for specific performance, it would result in multiplicity of proceedings.

8. Counter affidavit was filed by the petitioner opposing the said application and contending that if the amendment is allowed it would result in change in the nature of the suit. He also contended that originally when the plaint was filed, 1st respondent ought to have sought the relief of specific performance and he cannot now amend the pleadings and seek the said relief on the basis of false pleas.

9. By order dt.22.04.2014, the Court below allowed the said application. It observed that the amendment sought by the 1st respondent did not alter the nature of the suit and that there is no concealment of any facts by the 1st respondent.

10. Assailing the same, this Revision is filed.

11. Though counsel for the petitioner sought to contend that the Court below ought not to have allowed the application for amendment of the plaint sought for by the 1st respondent, I am unable to agree with the said contention. The pleadings necessary in the suit for specific performance have been taken to some extent in the original plaint itself and further pleadings are now sought to be added along with alteration of relief by seeking relief of specific performance in addition to the relief of injunction sought for originally in the plaint. So, it cannot be said at this stage that there is any suppression of fact by the 1st respondent. If the amendment application is not ordered and the 1st respondent was forced to file a separate suit, it would result in multiplicity of proceedings. Also, the trial in the suit has admittedly not commenced and so no prejudice would be caused to the petitioner, if the application for amendment is ordered.

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

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

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

M.S. RAMACHANDRA RAO, J

13th June, 2019.

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