

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

Civil Revision Petition No.4197 of 2016

ORDER:

This Civil Revision Petition, under Article 227 of the Constitution of India, is filed by the petitioner/plaintiff, aggrieved by the docket order, dated 13.07.2016, passed in I.A.No.931 of 2014 in O.S.No.428 of 2010, by the VII Additional Senior Civil Judge, Ranga Reddy District at L.B.Nagar, whereby, the petition filed by the petitioner/plaintiff under Order VI Rule 17 read with Section 151 of CPC to amend the plaint at the stage of defendants side evidence and to permit to carry out amendment by adding para (6) to the plaint, was dismissed with costs of Rs.250/-.

2. Heard the learned counsel for both the sides and perused the record.

3. The learned counsel for the revision petitioner/plaintiff would submit that the revision petitioner/plaintiff was not aware of the 'B' schedule property. Having come to know about the same, immediately she filed the subject interlocutory application to incorporate para 6 and 'B' schedule property in the plaint, by way of amendment. There are no laches or delay on the part of the revision petitioner/plaintiff in seeking amendment as prayed for.

The Court below, without assigning any reasons, dismissed the subject interlocutory application, which is erroneous, and ultimately prayed to set aside the impugned order and allow the subject interlocutory application as prayed for.

4. On the other hand, the learned counsel for the respondents/defendants would contend that the details of 'B' schedule property were mentioned in the written statement filed by the respondents/defendants in the suit, in July, 2010. The entire evidence of the revision petitioner/plaintiff is completed. The suit is coming up for defendants' evidence. The subject interlocutory application is filed at the fag end of the trial of the suit. The Court below is justified in dismissing the subject interlocutory application. There is nothing to interfere with the same and ultimately prayed to sustain the impugned order and dismiss the Civil Revision Petition.

5. Admittedly, the written statement filed in the suit by the respondents/defendants in July, 2010, do not refer to the proposed 'B' schedule property. There are no specific details of purchase and bequeathing of the 'B' schedule property in the written statement. It has been contended on behalf of the revision petitioner/plaintiff that 'B' schedule property was purchased by one Late K.Anandam in the name of his wife Smt.K.Indravathi. Therefore, the revision petitioner/plaintiff is entitled for a share in the said property

also, which is denied by the respondents/defendants. Further, the subject application in I.A.No.931 of 2014 was filed in the year 2014 and it was disposed of by impugned order, dated 13.07.2016. It is also submitted on behalf of the revision petitioner/plaintiff that immediately after obtaining the copy of the Will Deed, dated 24.09.2004, the subject interlocutory application was filed. As per the material placed on record, the revision petitioner/plaintiff came to know about the details of the 'B' schedule property for the first time, on obtaining the certified copy of the Will Deed, dated 24.09.2004, when it was filed by the respondents/defendants on 22.04.2014, and immediately she filed the subject interlocutory application. Under these circumstances, it cannot be held that there are laches on the part of the revision petitioner/plaintiff. The suit is for partition and separate possession of the properties left by Late K.Anandam. The contentions raised by way of amendment are required to be addressed in the original suit. Under these circumstances, the impugned order is unsustainable and is liable to be set aside.

6. In the result, the Civil Revision Petition is allowed by setting aside the impugned order. Consequently, I.A.No.931 of 2014 in O.S.No.428 of 2010 on the file of the VII Additional Senior Civil Judge, Ranga Reddy District at L.B.Nagar, stands allowed as prayed for. The revision petitioner/plaintiff is directed to carry out the amendment

sought in the plaint and file neat copy of the plaint within fourteen (14) days from the date of receipt of a copy of this order. Further, it is observed that an issue relating to 'B' schedule property is required to be framed and answered by the trial Court, after due trial.

Miscellaneous petitions, if any, pending in this Civil Revision Petition, shall stand closed. There shall be no order as to costs.

10th December, 2019
Bvv

Dr. SHAMEEM AKTHER, J

