

HON'BLE SRI JUSTICE A. VENKATESHWARA REDDY

CIVIL REVISION PETITION No.136 OF 2014

ORDER:

Heard learned counsel for the petitioners and learned counsel for the respondents. Perused the record.

2. This civil revision petition is filed assailing the orders in I.A.No.367 of 2012 in O.S.No.14 of 2010 dated 07.11.2013 on the file of the Junior Civil Judge at Thorrur. The suit was filed for injunction simplicitor along with I.A.No.43 of 2010 before the trial Court and it was dismissed on 29.11.2010. Aggrieved by the same, the plaintiff preferred C.M.A., and the same was also dismissed. Thereafter, the present application is filed seeking to grant of relief of declaration of title and recovery of possession. To avoid multiplicity of litigation, the Court below through the order impugned dated 07.11.2013 allowed the application with the following observations:

“9. In a decision reported in **Adusumilli Venkateswar Rao and another Vs. Chalasani Hymavathi**¹, wherein it was observed by the Hon'ble High Court of A.P. that application for amendment of plaint seeking for conversion of suit into one for possession can be allowed and such conversion does not amount alteration of the suit. In another decision reported in **Sri Laxmi Devi Vs. Abdul Rahman**², wherein their Lordship also held that amendment of plaint seeking for conversion of suit into one declaration of title and recovery of possession can be allowed and such conversion does not amount to alteration of the suit. The case on hand suffers with similar facts and circumstances. Hence, followed. Further, while seeking guidance from the dictum laid down in the above decisions cited by the learned counsel for the petitioner, I am inclined to permit the petitioner/plaintiff to amend the plaint with the proposed amendment converting the suit into one for declaration of title and recovery of possession. In my considered view the proposed amendment is quite essential for proper adjudication of the dispute between the parties. The petitioner shall pay the required Court fee for the relief of declaration of title and recovery of possession along with the amendment plaint.”

¹ AIR 1990 AP 161

² 2006 (1) ALT 4

3. On a studied examination of the order impugned and the citations referred therein at the instance of the petitioners and the respondents, I do not find any jurisdictional error committed by the Court below. In my considered opinion proposed amendment is quite essential to avoid multiplicity of litigation and for proper adjudication of the disputes between the parties. Learned counsel for the petitioners contended that the respondents were not diligent in approaching the Court and that at different places the 1st respondent/plaintiff has taken different pleas as to the source of his title.

4. Be that as it may, as the learned counsel on both sides fairly conceded that if the trial Court is directed to dispose of the original suit within a fixed time frame, they have no objection. Without looking into the merits of the case, while recording the above submissions as the original suit is of the year 2010 and the proposed amendment was allowed on 07.11.2013, I am not inclined to disturb the findings recorded by the trial Court.

5. In the result, the civil revision petition is disposed of with a direction to the Court below to give an opportunity to the defendants to file additional written statement within the time frame as per the C.P.C., frame additional issues, if any, required and proceed with the trial as expeditiously as possible. The learned trial Court shall make every effort to dispose of the original suit within six weeks from the date of receipt of copy of the order. Both the parties to the suit shall cooperate with the trial Court for expeditious disposal of the suit as directed. There shall be no

order as to costs. Miscellaneous Petitions, if any, pending in this civil revision petition shall stand closed.

A. VENKATESHWARA REDDY, J

Date:07.01.2022

KH

HON'BLE SRI JUSTICE A. VENKATESHWARA REDDY

CIVIL REVISION PETITION No.136 OF 2014

Date:07.01.2022

KH