

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

Civil Revision Petition No.2365 of 2017

ORDER :

This Civil Revision Petition is filed challenging the order dt.20.02.2017 passed in I.A.No.140 of 2016 in O.S.No.11 of 2012 on the file of Junior Civil Judge, Achampet.

2. The petitioners herein are defendants in the above suit.
3. The respondent herein filed the suit against the petitioners for a perpetual injunction restraining the petitioners from interfering with his alleged peaceful possession and enjoyment of the plaint schedule property.
4. According to respondent, he inherited from his father Parvath Reddy Ac.0.30 gts. in Sy.No.70/AA and Acs.2.31 gts. in Survey No.71/A of Palkapally Village of Achampet Mandal.
5. Written statement was filed by petitioners specifically contending in para no.9 that the share of Parvath Reddy in Survey No.71 to an extent of Acs.3.10 gts. was sold away by Parvath Reddy to one E. Laxmaiah and some other extent also to others, and suppressing the same, the respondent as filed the suit.
6. After the evidence of the respondent was concluded, the petitioners filed I.A.No.140 of 2016 in November, 2016 to amend the plaint referring to sale of lands by respondent's grandfather and again reiterating that Parvath Reddy sold Acs.3.10 gts. to E. Laxmaiah. The

petitioners also wanted to state that the Revenue Authorities wrongly deleted some land from the holding of Janardhan Reddy, grandfather of the petitioners, and taking advantage of the same, the respondent had filed the suit; and in fact, the respondent had no land in the said Survey number as on the date of filing of the suit.

7. Counter-affidavit was filed by the respondent opposing the application and contending that new facts are sought to be introduced contrary to the original pleading.

8. By order dt.20.02.2017, the Court below dismissed I.A.No.140 of 2016. It referred to proviso to Order VI Rule 17 of Civil Procedure Code, 1908 and held that the application for amendment has been filed by the petitioners after commencement of the trial and conclusion of the respondent's evidence without giving any sufficient reasons for not bringing these facts, seeking proposed amendment, before commencement of trial, though several adjournments had been granted to them to put forth their evidence. It also held that new facts are now sought to be introduced by way of amendment contrary to the facts stated in the original written statement, and this cannot be permitted because it causes prejudice to the respondent.

9. Assailing the same, the present Civil Revision Petition is filed.

10. Though the counsel for petitioners sought to contend that grave prejudice would be caused to petitioners if the application for amendment is not allowed, since the application for amendment had

been moved after the trial had commenced and the evidence of petitioners was closed, and nothing is stated to show that due diligence has been exercised by petitioners, and they could not have raised the issues now raised before the commencement of trial, I hold that the court below has rightly rejected the I.A. Also, the document dt.10.04.1971 is a registered document and could have been obtained from the office of concerned Sub-Registrar much before the filing of the suit itself, and new facts cannot be introduced by way of amendment after the evidence of respondent is completed since it would prejudice him.

11. 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.

12. Accordingly, the Civil Revision Petition fails and it is dismissed at the stage of admission. No order as to costs.

13. The interim order granted earlier shall stand dissolved.

14. As a sequel, miscellaneous petitions pending if any in this Civil Revision Petition, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 31.01.2019

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