

**HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO**

**CIVIL REVISION PETITION NO. 105 OF 2015**

**ORDER:**

The petitioner herein is the plaintiff in O.S.No. 95 of 2009 on the file of Junior Civil Judge, Ramannapet. She filed a suit for injunction against respondent herein in respect of an extent of Ac. 1.31 gts in S.No. 260/5 of Phanthangi Village of Choutuppal, Nalgonda District. After completion of her cross-examination, she realized a mistake in the plaint schedule property with regard to eastern boundary. She filed I.A.No. 101 of 2014, seeking substitution of the eastern boundary. The said application was dismissed by the learned Junior Civil Judge, Ramannapet by order dated 13.11.2014. Challenging the said order, the present Civil Revision is filed.

The petitioner is none other than the wife of the father's brother of defendant. The case of the plaintiff is that she is the absolute owner of Ac. 1.31 gts in S.No. 260/5 of Phanthangi Village of Choutuppal, standing in the name of her husband, who died intestate in the year 2000. When the defendant, taking advantage of the illiteracy and old age of the plaintiff, intending to occupy the said property, the plaintiff filed the suit for perpetual injunction. In the suit, the eastern boundary of "A" schedule property was mentioned as "land belongs to Gattu Ramchandra Reddy". Now she wants to change the said description by substituting the words "land belongs to Bheemidi Narsi Reddy S/o Malla Reddy (defendant)". The said amendment was sought on the ground that she being an illiterate and aged person she could not give proper instructions at the time of filing of the suit and the proposed amendment does not cause any prejudice to the case of the defendant. The defendant filed a counter stating that he already filed written statement indicating that the suit was filed with wrong boundaries and the present application is filed after completion of cross-examination of the plaintiff. The trial Court

dismissed the application on the ground that if the proposed amendment is allowed it will defeat the very defence taken by the respondent, it would infringe his rights and would cause prejudice to his defence.

Now the plaintiff wants to substitute the eastern boundary with correct particulars. Though the application was filed after completion of cross-examination of the plaintiff, it is not known how the said amendment is going to prejudice the case of the defendant. The defendant is none other than the son of the brother of the husband of the plaintiff. The plaintiff is claiming possession of an extent of Ac. 1.31 gts consequent to the death of her husband in the year 2000.

Learned counsel for the petitioner in support of his case relied on the decisions reported in ***Sajjan Kumar Vs. Ram Kishan, Usha Devi V. Rijwan Ahmad and Others, Surender Kumar Sharma V. Makhan Singh, Revajeetu Builders and Developers V. Narayanaswamy and sons and others, and Allam Nagaraju and others V. Katta Jagan Mohan Reddy and others***. On the other hand the learned counsel for the respondent in support of his case placed reliance on the decisions reported in ***Narne Estates Private Ltd. V. N. Gopal Naidu and Rajkumar Gurawara (dead) through L.Rs V. S.K. Sarwagi and Company Private Limited and another***.

This Court feels that the detailed examination of the ratio laid down in the above cases is not necessary for disposal of the present case. In the present case, the plaintiff filed the suit for injunction and the plaintiff is not seeking change of all boundaries except eastern boundary, which description she could not make properly at the time of filing of the suit. Though the application was filed after completion of cross-examination of the plaintiff, still trial has to be completed by adducing further evidence on behalf of the plaintiff and the defendants. In the circumstances, it cannot be held that prejudice would be caused to the case of the defendant.

Each case has to be seen in the light of the facts of the particular case. In the present case, the plaintiff is claiming possession since the year 2000 and she has to establish her case in the suit. Hence, the dismissal of petition filed by the plaintiff is not proper and legal.

Accordingly, the Civil Revision Petition is allowed and the order dated 13.11.2014 passed in I.A.No. 101 of 2014 in O.S.No. 95 of 2009 is set aside. There shall be no order as to costs.

As a sequel thereto, miscellaneous petitions, pending if any, shall stand closed.

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**A. RAMALINGESWARA RAO, J**

Date: 16.11.2015

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