

K. Vishnu Vs. K. Janardhan and Others

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Court : Andhra Pradesh

Decided On : Feb-18-2013

Judge : Honourable Sri Justice L. Narasimha Reddy

Appellant : K. Vishnu

Respondent : K. Janardhan and Others

Advocate for Def. : Sri. D. Hanumanth Rao Counsel

Judgement :

HONOURABLE SRI JUSTICE L.

NARASIMHA REDDY CIVIL REVISION PETITION No.2078 OF 201.18-02-2013
K.

Vishnu K.

Janardhan and others Counsel for the Petitioner: Sri D.

Hanumanth Rao Counsel for the Respondents: Sri V.

Sudhakar Reddy : ?Cases referred: ORDER: The petitioner filed O.S No.63 of 2008 in the Court of the Senior Civil Judge, Srikalahasthi, against the residents for the relief of partition and separate possession of suit schedule properties.

It appears that written statement was filed by some of the defendants and the others have adopted the same.

The respondents 1 and 2 i.e.

the defendants 1 and 2 filed an application under Order - VI Rule - 17 CPC with a prayer to permit them to amend the written statement.

The application was ordered.

Though time was granted to the petitioner to file rejoinder, he did not avail that opportunity.

Thereafter, issues were framed and the evidence on behalf of the petitioners was closed.

When the evidence of D.W-1 was in progress, the petitioner filed I.A No.463 of 2012 with a prayer to permit him to file rejoinder.

The application was opposed by the respondents 1 and 2.

The trial Court dismissed the same through order, dated 10-04-2012.

It was observed that the petitioner did not avail the opportunity and it is not open for him to file rejoinder at this stage.

2.

Heard the learned counsel for the petitioner and the learned counsel for the contesting respondent.

3.

The trial Court did give an opportunity to the petitioner, after the written statement, filed by the respondents, was amended.

For one reason or the other, that was not availed.

The application seeking permission to file rejoinder was filed only after the evidence of the petitioner was closed.

Across the Bar, it is stated that not being aware of the consequences thereof, the Junior to the counsel for the petitioner in the trial Court, reported that they did not intend to file any rejoinder.

By the time the application was taken up, evidence on behalf of both the parties was closed, arguments were advanced and the matter was reserved for judgment.

4.

Filing of rejoinder became necessary only on account of the amendment caused to the written statement.

A rejoinder has a very limited purpose to serve.

Except that it incorporates the plea of denial or explanation, by itself, it cannot plead any new or fresh fact, unless permitted by the Court.

The issues are to be framed on the basis of the pleadings, viz., the plaint and the written statement.

The role that can be attributed to the rejoinder in the context of framing of issues or leading of evidence is minimal.

It only places on record, the disagreement on the part of the plaintiff about the facts pleaded through the amendment.

Granting of permission to the petitioner to file a rejoinder would only make his disagreement with the facts pleaded by the respondents 1 and 2 through the amendment of plaint, and nothing more.

To be specific, it does not entail framing of any additional issue much less examination of witnesses or reopening of evidence.

5.

Hence, the Civil Revision Petition is allowed.

It is directed that the trial Court shall take on record the rejoinder, presented by the petitioner and it shall not either reopen the evidence or permit examination of any witness on that ground.

There shall be no order as to costs.

The miscellaneous petition filed in this revision petition shall also stand disposed of.

_____ L.

NARASIMHA REDDY, J February 18, 2013.

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