
(2005) 10 AP CK 0021
In the Andhra Pradesh High Court
Case No : CRP No. 4690 of 2005

Daggumati Malakonda Reddy and Another	APPELLANT
Vs	
Puligunta Malakonda Reddy and Others	RESPONDENT

Date of Decision : 28-10-2005

Acts Referred:

Civil Procedure Code Amendment Act, 1999 — Section 16
Civil Procedure Code Amendment Act, 2002 — Section 16(2), 7
Civil Procedure Code, 1908 (CPC) — Order 6 Rule 15, Order 6 Rule 17, Order 6 Rule 18, Order 6 Rule 5

Citation : (2006) 2 ALD 784 : (2006) 3 ALT 206

Hon'ble Judges : C.Y. Somayajulu, J

Bench : Single Bench

Advocate : M. Venkata Narayana, for the Appellant; T. Rajendra Prasad, for the Respondent

Judgement

C.Y. Somayajulu, J.—Questioning the order dismissing the petition filed for amendment of the plaint, plaintiff in the suit filed this revision.

2. The contention of the learned Counsel for the petitioners is that since the proposed amendment would obliterate the necessity of the revision petitioner filing a fresh suit, and since respondents would not in any way be prejudiced by the proposed amendment, as they can file an additional statement and can contest the claim made in the amended plaint, the Court below was in error in dismissing the petition for amendment of plaint filed by the revision petitioner.

3. The contention of the learned Counsel for the respondents is that in view of the amended Rule 17 of Order VI C.P.C. the order of the trial Court dismissing the petition filed for amendment cannot be found fault with because the trial of the suit has already commenced and in any event since the affidavit of the revision petitioner does not disclose the reasons for the proposed amendment and the reasons for the inordinate delay in filing the petition for amendment, order under revision needs no interference.

4. I see no force in the first contention of the learned Counsel for the respondents about the maintainability of the petition for amendment filed after the trial is taken up, because the suit was filed in 1999, long prior to the coming into force of the CPC (Amendment) Act, 2002 on 1-7-2002 and since Section 16(2)(b) of the CPC (Amendment) Act, 2002, lays down that the provisions of Rules 5, 15, 17 and 18 of Order VI C.P.C., as omitted or, as the case may be, inserted or substituted by Section 16 of the CPC (Amendment) Act, 1999 and by Section 7 of the Act i.e., CPC (Amendment) Act, 2002 shall not apply in respect of any pleading filed before the commencement of the CPC (Amendment) Act, 1999 and the CPC (Amendment) Act, 2002, both of which came into force on 1-7-2002. Therefore, it is clear that the provisions of amended Rule 17 of Order VI C.P.C. apply to pleadings filed on or after 1.7.2002, but not to the pleadings filed prior to 1-7-2002. So, the fact that the trial of the suit has already commenced per se is not a ground for rejection of the application for amendment of the plaint filed by the revision petitioner.

5. It is no doubt true that the revision petitioner in his affidavit filed in support of the petition for amendment, had, without mentioning any reasons for seeking the proposed amendment, stated that in view of the advice given by his Counsel he is filing the petition for amendment of the plaint. Since parties act on the advice of their Counsel only petitioner not specifically mentioning the reasons for seeking the amendment may not be of any consequence in this case because the respondent would not in any way be prejudiced by the non-mention of the reasons for seeking the proposed amendment. For that reason and for the reason that merits of a proposed amendment need not be gone into at the time of deciding the petition seeking amendment of the pleadings, and for the reason that respondents will have an opportunity to contest claim introduced by way of the proposed amendment by filing an additional written statement, and since the Apex Court in Jai Jai Ram Manohar Lal Vs. National Building Material Supply Gurgaon, held that the rules of procedure are intended to be hand made to the administration of justice and that a party cannot be refused a just relief merely because of some mistake, negligence or inadvertence or other reasons, I am of the opinion that the trial Court was in error in dismissing the petition of the revision petitioner seeking amendment of the plaint.

6. The delay in filing the petition and the consequent inconvenience caused to the respondents can be compensated by way of costs, and so the revision petitioner can be permitted to amend the plaint as per the proposed amendment, subject to his paying Rs. 1,000/- as costs to the respondents.

7. For the above reasons, on condition of the revision petitioners paying Rs. 1,000/-(Rupees one thousand only) as costs to the respondents within two weeks from today, this revision and consequently LA. No. 743 of 2004 in O.S. No. 266 of 1999 on the file of the Court of the Principal Junior Civil Judge, Kavali, would stand allowed. In default revision petition stands dismissed. In the event of the revision being allowed, the trial Court shall dispose of the suit as

expeditiously as possible, at any rate, within a period of four months from the date of receipt of a copy of this order.