

T. Subbarami Reddy Vs D.R. Ramaswamy Reddy

Court: Andhra Pradesh High Court

Date of Decision: April 29, 1993

Acts Referred: Civil Procedure Code, 1908 (CPC) â€” Order 6 Rule 17, 115

Citation: (1993) 2 ALT 326

Hon'ble Judges: Immaneni Panduranga Rao, J

Bench: Single Bench

Advocate: C. Poorniah, for the Appellant; P.S. Narayana, for the Respondent

Final Decision: Allowed

Judgement

@JUDGMENTTAG-ORDER

Immaneni Panduranga Rao, J.

This revision is filed challenging the order of the learned First Additional District Munsif, Tirupathi dismissing

the petition filed for amendment of plaint. Originally this suit was filed by the revision petitioner for a declaration and injunction basing on a lease

granted by the Government for ten years from 21-1-81. The defendant has taken a plea that in view of the expiry of the original lease, the suit has

become in fructuous. Thereupon, the plaintiff filed I.A.1557/92 seeking amendment of the plaint for declaration as to plaintiff's right to enjoy the

plaint - A schedule property with absolute rights till he is evicted under due process of law.

2. It is submitted that during the pendency of the suit, the Government granted lease in his favour for another period of 10 years and the same is in

force.

3. The learned District Munsif dismissed the petition for amendment on the ground that the petitioner has not disclosed in the Writ Petition filed in

the High Court about the pendency of the suit and has given a wrong declaration that he has not filed any suit. But as rightly contended by the

learned counsel for the revision petitioner, the writ petition relates to grant of renewal of lease, by the respondent therein. The defendant in the suit

is not a party to the writ petition nor is the prayer in the writ petition identical with the prayer in the suit. Therefore, the declaration given by the

plaintiff in the writ petition cannot be said to be wrong because the relief sought for in the writ petition and the relief claimed in the suit are different.

4. The learned counsel for respondent vehemently opposed the revision petition on the ground that the proposed amendment introduces a new

case and new cause of action.

5. That contention cannot be accepted because the suit is filed on the basis that the plaintiff was in possession by virtue of a valid lease granted in

his favour by the Government and the cause of action is threatened dispossession by the defendant. If during the pendency of the suit, the plaintiff

was given fresh lease entitling him to continue in that property the court can taken into consideration the subsequent event and grant permission to

amend the plaint so long as a new cause of action is not introduced. By virtue of the subsequent event of lease being renewed in favour of the

plaintiff, the plaintiff's contention is that he is entitled to continue in possession of that property even beyond 21-1-88. That is a subsequent event

happening during the pendency of the suit and the plaintiff could not have urged this contention in the plaint as it was originally filed. The cause of

action is threatened dispossession by the defendant and there is no change of cause of action by the proposed amendment. I therefore, hold that

the order of the learned District Munsif dismissing the petition for amendment is not correct and is liable to be set aside.

6. The CRP is accordingly allowed setting aside the order of the learned District Munsif in I.A. 1557/92. No costs.