



**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

**FRIDAY, THE TWENTY EIGHTH DAY OF FEBRUARY
TWO THOUSAND AND TWENTY FIVE**

PRESENT

THE HONOURABLE SMT JUSTICE P.SREE SUDHA

CIVIL REVISION PETITION NO: 3808 OF 2024

Petition under Article 227 of the constitution of India aggrieved by the Order dated 20-09-2024 Passed in I.A.No.1029 of 2024 in O.S.No.177 of 2003 on the file of the court of the Principal Senior Civil Judge cum Assistant Sessions Judge Sangareddy at Sangareddy.

Between:

1. Liaqat Hasan Khan (Died), per L.Rs. Plaintiffs No.2 to 11.
2. Tasneem Sultana, W/o. Late Liaqat Hasan Khan, age 54 years, Occ.. House Wife. All are R/o. H.No.10-4-771/82/C/2, Green Street, Ahmed Nagar, Masabtank, Hyderabad.
3. Mohammed Mustafa Hasan Khan, S/o. Late Liaqat Hasan Khan, age 35 years, Occ. Business.
4. Mohammed Sayeed Hasan Khan, S/o. Late Liaqat Hasan Khan, age 34 years, Occ. Pvt. Service.
5. Mohammed Omer Hasan Khan, S/o. Late Liaqat Hasan Khan, age 33 years, Occ.. Business.
6. Mohammed Osman Hasan Khan, S/o. Late Liaqat Hasan Khan, age 31 years, Occ.. Pvt. Service.
7. Mohammed Asadullah Khan, S/o. Late Liaqat Hasan Khan, age 29 years, Occ.. Pvt. Service.
8. Nusaiba Sultana, D/o. Late Liaqat Hasan Khan, age 27 years, Occ.. House Wife.
9. Mohammed Bilal Hasan Khan, S/o. Late Liaqat Hasan Khan, age 25 years, Occ. Student.
10. Mohammed Khalid Hasan Khan, S/o. Late Liaqat Hasan Khan, age 23 years, Occ. Student.
11. Khadejah Sultana, D/o. Late Liaqat Hasan Khan, age 21 years, Occ.. Student. All are R/o. H.No.10-4-771/82/C/2, Green Street, Ahmed Nagar, Masabtank, Hyderabad.

...Petitioners/Plaintiffs



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AND

1. Syed Ali Abid Zaidi, S/o. Badrul Hasan Zaidi, aged about 44 years, Occ.. Private Employee, R/o. Flat No.101, D.V. Apartment, Salarjung Colony, Hyderabad, A. P, presently, R/o. 9-4-86/1, Flat No.203, M.Q. Pride Apartments, Salarjung Colony, Hyderabad, Rep. by his G.P.A., Mohammed Nasser Khan S/o. the Late Mohammed Hussain Khan, R/o. H.No.12-2-20, Murad Nagar, Asif Nagar, Hyderabad, and Mohammed AkbarAli S/o. the Late Mohammed Wahed Ali, R/o. No.255, Flat No.303, 3rd Floor, Mark Five Apartment, Bayouth Colony, Puppalaguda, Rajendranagar, Rangareddy Dist.
2. Gulnar Gulabi, W/o. Syed Ali Abid Zaidi, (presently, D/o. Gulam Hussain Gulabi) The Respondents No.2 to 4 are R/o. H.No.8-2- 674/1/0, New Avenue 129, Road No.13, Banjara Hills, Hyderabad.
3. Wadaiah Darosham Zaidi, D/o. Syed Ali Abid Zaidi, age 12 years, Occ.. Minor.
4. Syed Meesam Ali Zaidi, S/o. Syed Ali Abid Zaidi, age 10 years, Occ.. Minor. The Respondents No.2 to 4 are R/o. H.No.8-2- 674/1/0, New Avenue 129, Road No.13, Banjara Hills, Hyderabad.

...Respondents/Defendants

IA NO: 1 OF 2024

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to stay all further proceedings in O.S. No.177 of 2003 on the file of Senior Civil Judge at Sangareddy.

Counsel for the Petitioner :Sri Md Ajmal Ahmed

Counsel for the Respondent No.1: Sri Nalla Mukunda Reddy

Counsel for the Respondent No.2: Sri Tarun Madathanapally

The Court made the following: ORDER



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THE HONOURABLE SMT. JUSTICE P.SREE SUDHA

CIVIL REVISION PETITION No.3808 of 2024

ORDER:

This Civil Revision Petition is filed against the Order dated 20.09.2024 in I.A.No.1029 of 2024 in O.S.No.177 of 2003, passed by the learned Principal Senior Civil Judge, Sangareddy.

2. Petitioners herein have filed an application *vide* I.A.No.1029 of 2024 in O.S.No.177 of 2003, against the respondents under Order 6 rule 17 of CPC r/w Section 151 of CPC and rule 28 of CRP, before the trial Court, for amendment of the plaint along with consequential amendments in O.S.No.177 of 2003. The trial Court after considering the arguments of both sides dismissed the application. Aggrieved by the said Order, they preferred the present Civil Revision Petition.

3. Learned Counsel for the petitioners herein mainly contended that petitioners sought for amendment to incorporate the correct boundaries of the suit schedule properties and it is necessary for proper adjudication and determination of the real question of the matter. The nature of correction is clerical mistake, which crept in the plaint and it cannot be refused on



the ground of delay, but the trial Court without appreciating the facts properly, dismissed the application. The proposed amendment would not change the nature of the suit or pleadings and it is essential for the effective implementation of the decree to be passed in future and no prejudice will be caused to the petitioner if the amendment application is allowed. He also contended that citations filed by the petitioners were not considered by the trial Court. Petitioners have previously filed the similar application *vide* CFR No.1500 of 2020, dated 17.11.2020 even before filing of the written statement of respondent No.1, but it was misplaced by the Registry and hence they filed I.A.No.1029 of 2024, for amendment of the plaint. They filed the said application only to rectify the typographical mistakes which were crept at the time of filing of the suit. Therefore, requested the Court to set aside the Order of the trial Court.

4. Initially, petitioners have filed a suit *vide* O.S.No.177 of 2003, for specific performance of agreement of sale against the respondents on 10.11.2003 and the boundaries of the suit schedule properties for Sy.Nos.314, 315, 309 and 311 admeasuring Acs.3-07 gts, Acs.2-37 gts, Acs.8-07 gts and Acs.9-32 gts respectively, were mentioned in the plaint. Written



Statement was filed by the respondent No.1/defendant No.1 on 31.08.2023, respondent No.2/defendant No.2 on 10.06.2005 and respondents No.3 and 4/defendants No.3 and 4 on 30.07.2007. Further, additional written statements were also filed by respondent No.2/defendant No.2 on 21.12.2007 and by respondents No.3 and 4 on 07.12.2007. As the respondent No.1 remained *ex-parte*, respondents No.2 to 4 were impleaded. Respondent No.2 is the wife of respondent No.1 and respondents No.3 and 4 are the children of respondent No.1. The trial Court after considering the arguments of both sides and also oral and documentary evidence on record decreed the suit in favour of the petitioners herein. Aggrieved by the said Judgment and decree, respondents preferred an appeal before this Court *vide* A.S.No.394 of 2016 and this Court *vide* Judgment dated 12.07.2022, set aside the Judgment and decree passed by the trial Court and remitted the matter back for fresh disposal. I.A.No.1844 of 2018 in O.S.No.177 of 2003 was filed for setting aside the *ex-parte* Judgment and decree dated 09.02.2016, passed in O.S.No.177 of 2003 and it was allowed on 07.12.2019. After remanding the matter for fresh disposal, the present application i.e., I.A.No.1029 of 2024 was filed for rectification of the boundaries on the ground that they obtained Tonch Map and Village Map of Indresham Village and on

examining the maps, they noticed that there was an error in reference to the survey number on the west side of the item No.ii of the suit schedule properties. The survey number was shown as 320 instead of 321, as such they filed the application for alteration of correct boundaries.

5. Petitioners stated that the legal heirs of petitioner No.1 are impleaded on 10.11.2020 and for the first time they identified that errors occurred in the plaint in respect of the description of the item Nos.iii and iv of the suit schedule properties with respect to boundaries. The boundaries of the land in Sy.No.314/A i.e., item No.i are typed as boundaries of the land in Sy.No.309 i.e., item No.iii. Similarly, the boundaries of the land in Sy.No.315/A i.e., item No.ii are typed as boundaries of the land in Sy.No.311 i.e., item No.iv of the suit schedule property. It is also stated that as the petitioner No.1 was used to reside in abroad, they could not notice the errors crept in the said item Nos.iii and iv of the schedule properties and their father i.e., petitioner No.1 passed away in the year 2017, later they were impleaded as legal heirs and now they are advised to file amendment application for rectification of the same and thus requested the Court to permit them to amend the plaint as mentioned in the affidavit. They further stated that



the document No.2767 of 2002 should also be amended as document No.6727 of 2002 and in item No.ii of the suit schedule property, on the west side the Sy.No.320 should be amended as Sy.No.321.

6. In the counter filed by the respondents No.2 to 4, they stated that registered agreement of sale was marked as Ex.A9 through P.W.1 and without rectifying the boundaries in Ex.A9, now petitioners are seeking for rectification of boundaries in the plaint. It is also stated that in the year 2017, respondent No.1 cancelled the registered agreement of sale *vide* document No.25431 of 2017 dated 12.11.2017 and again executed the General Power of Attorney *vide* document No.25701 of 2017 on the same day in favour of Mohammed Naser Khan and Mohamed Akbar Ali and transferred a part of the suit schedule property in favour of third parties by way of sale deeds dated 23.12.2019 bearing document Nos.54397 and 54398 of 2019, but not challenged the said documents till today and it amounts to playing fraud and misrepresenting true facts. Basing on the said sale deeds, third parties filed a suit for perpetual injunction *vide* O.S.No.29 of 2020 against the respondent No.4 and also against the petitioners herein and it is still pending. Petitioners No.4 and 5 herein are arrayed as defendants No.1 and 2 in the



said suit and filed their written statement in the year 2020. They further stated that petitioners have filed the amendment application after lapse of 21 years without any valid reasons and thus requested the Court to dismiss the same.

7. In the counter filed respondent No.1, he stated that the registered agreement of sale bearing No.6727 of 2002 is the basis of filing of suit, but it does not contain the boundaries in respect of the land in Sy.Nos.309 and 311. In the absence of mentioning the boundaries in the registered agreement of sale, petitioners cannot sought for amendment to incorporate the boundaries of their choice and petitioners cannot go beyond the schedule property mentioned in the alleged agreement of sale and are not entitled for amendment unless the registered agreement of sale was corrected by way of deed of rectification. Further, petitioners sought amendment as per the boundaries in the village map and tonch map, which is impermissible under law. Petitioners themselves stated that previously they filed the similar petition and the same was misplaced. It shows that they are not diligent. He further stated that previously petitioner No.1 was examined as P.W.1 and an ex-parte decree was passed. When P.W.1 was examined he did not seek any amendment, but for the first time legal heirs of the petitioner



No.1 are seeking amendment, which is impermissible. Therefore, requested the Court to dismiss the amendment application.

8. As per the decision of the Hon'ble Apex Court in ***Life Insurance Corporation of India Vs Sanjeev Builders Private Limited and Another¹***, the guidelines for amendment are mentioned as follows:

"(i) Order II Rule 2 CPC operates as a bar against a subsequent suit if the requisite conditions for application thereof are satisfied and the field of amendment of pleadings falls far beyond its purview. The plea of amendment being barred under Order II Rule 2 CPC is, thus, misconceived and hence negatived.

(ii) All amendments are to be allowed which are necessary for determining the real question in controversy provided it does not cause injustice or prejudice to the other side. This is mandatory, as is apparent from the use of the word "shall", in the latter part of Order VI Rule 17 of the CPC.

(iii) The prayer for amendment is to be allowed

(I) if the amendment is required for effective and proper adjudication of the controversy between the parties, and

(II) to avoid multiplicity of proceedings, provided

(a) the amendment does not result in injustice to the other side,

(b) by the amendment, the parties seeking amendment does not seek to withdraw any clear admission made by the party which confers a right on the other side and

(c) the amendment does not raise a time barred claim, resulting in divesting of the other side of a valuable accrued right (in certain situations).

(iv) A prayer for amendment is generally required to be allowed unless

¹ AIR 2022 SC 4256



- (I) by the amendment, a time barred claim is sought to be introduced, in which case the fact that the claim would be time barred becomes a relevant factor for consideration,
- (II) the amendment changes the nature of the suit,
- (III) the prayer for amendment is mala fide, or
- (IV) by the amendment, the other side loses a valid defence.

(v) In dealing with a prayer for amendment of pleadings, the court should avoid a hypertechnical approach, and is ordinarily required to be liberal especially where the opposite party can be compensated by costs.

(vi) Where the amendment would enable the court to pinpointedly consider the dispute and would aid in rendering a more satisfactory decision, the prayer for amendment should be allowed.

(vii) Where the amendment merely sought to introduce an additional or a new approach without introducing a time barred cause of action, the amendment is liable to be allowed even after expiry of limitation.

(viii) Amendment may be justifiably allowed where it is intended to rectify the absence of material particulars in the plaint.

(ix) Delay in applying for amendment alone is not a ground to disallow the prayer. Where the aspect of delay is arguable, the prayer for amendment could be allowed and the issue of limitation framed separately for decision.

(x) Where the amendment changes the nature of the suit or the cause of action, so as to set up an entirely new case, foreign to the case set up in the plaint, the amendment must be disallowed. Where, however, the amendment sought is only with respect to the relief in the plaint, and is predicated on facts which are already pleaded in the plaint, ordinarily the amendment is required to be allowed.

(xi) Where the amendment is sought before commencement of trial, the court is required to be liberal in its approach. The court is required to bear in mind the fact that the opposite party would have a chance to meet the case set up in amendment. As such, where the amendment does not result in irreparable prejudice to the opposite party, or divest the opposite party of an advantage which it had secured as a result of an admission by the party seeking amendment, the amendment is required to be allowed. Equally, where the amendment is necessary for the court to effectively adjudicate,



on the main issues in controversy between the parties, the amendment should be allowed.”

9. The learned Counsel for the petitioners relied upon the decision of the Hon’ble Apex Court in the case of **Bodhan Filling Station Revision Vs. B.Padmavathi and another**,² in which it was held that “amendment of the pleading may be permitted at any stage as long as the same is necessary for the purpose of determining the real questions in controversy between parties. The only limitation which has been placed by the proviso, which was added by an amendment in 2002, is that after commencing of the trial such amendment should not be allowed unless the Court coming to the conclusion that the party seeking amendment was diligent and could not have raised the matter before commencement of the trial.”

10. Learned Counsel for the respondents relied upon the decision of the Hon’ble Apex Court in the case of **M.Revanna Vs.Anjanamma (Dead) by legal representatives and others**,³ in which it was held as follows:

“Leave to amend may be refused if it introduces a totally different, new and inconsistent case, or challenges the fundamental character of the suit. The proviso to

² 2014 LawSuit(Hyd) 529

³ (2019) 4 SCC 332



Order 6 rule 17 CPC virtually prevents an application for amendment of pleadings from being allowed after the trial has commenced, unless the court comes to the conclusion that in spite of due diligence, the party could not have raised the matter before the commencement of the trial. The proviso, to an extent, curtails absolute discretion to allow amendment at any stage. Therefore, the burden is on the person who seeks an amendment after commencement of the trial to show that in spite of due diligence, such an amendment could not have been sought earlier. There cannot be any dispute that an amendment cannot be claimed as matter of right, and under all circumstances. Though normally amendments are allowed in the pleadings to avoid multiplicity of litigation, the Court needs to take into consideration whether the application for amendment is bona fide or mala fide and whether the amendment causes such prejudice to the other side which cannot be compensated adequately in terms of money."

11. In this case, suit for specific performance was filed way back in the year 2003. Though the respondents contested the matter, it was decreed in favour of petitioners and in the appeal, it was remitted back to the trial Court for fresh disposal. After remitting the matter, petitioners filed the amendment application for modification of the boundaries on the ground that they got verified the same through tonch map and village map. Petitioners stated that initially they filed amendment application vide CFR.No.1500 of 2020 on 17.11.2020 and also filed a copy of the same, but they stated that it was misplaced. The present application for amendment of plaint was filed on



08.08.2024. Though they filed an application for amendment in the year 2020 itself, when it was misplaced, they did not brought it to the notice of the officer or made any efforts to revive the same by filing another copy with the permission of the Court. They kept quiet for four years without any reason and it clearly shows that they are not diligent on their part. It is for the Court to see whether the petitioners have due diligence while allowing the application for amendment.

12. Petitioners stated that they obtained tonch map and village map and basing on the said maps, they noticed that there was error in the survey numbers and then they filed the application for rectification of the boundaries. They simply stated that it is only typographical mistake and they wrongly typed by way of copy and paste, as such now they are intending to rectify the same. The learned Counsel for the respondents contended that when the petitioners mentioned the boundaries as per the registered agreement of sale, it is for them to rectify the said boundaries in the agreement of sale by way of rectification deed, but they have not taken any steps for execution of the rectification deed and simply filed the amendment application at a belated point of time for rectifying the boundaries in the plaint and thus it cannot be considered.



At one point, petitioners says that basing on the tonch map and village map, they intended to rectify the boundaries and at another point, they says that it was only typographical mistake and thus they should be permitted to rectify the same and thus there was no consistency in the pleadings and moreover the maps are obtained on their own during the pendency of the proceedings without the permission of the Court. The document number of the agreement of sale is No.6727 of 2002, but in the plaint they mentioned it as No.2767 of 2002. At least, they have not mentioned the document number correctly and simply came up with the plea that it is a typographical error. It is for them to verify the crucial aspects thoroughly before filing the plaint. So also, they stated that boundary number on the western side is Sy.No.321, but wrongly typed as Sy.No.320. The trial Court observed that the suit was filed in the year 2003 and when the entire plaintiff's evidence was closed, petitioners came up with the amendment application at the belated point of time that too after commencement of the trial. There are subsequent developments took place during the pendency of the suit and thus there was no due diligence on their part and accordingly dismissed the application. This Court finds no illegality or irregularity in the said Order.



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13. In the result, the present Civil Revision Petition is dismissed confirming the Order of the trial Court dated 20.09.2024 passed in I.A.No.1029 of 2024 in O.S.No.177 of 2003. There shall be no order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

//TRUE COPY//

Sd/- A.V.S. PRASAD
ASSISTANT REGISTRAR

SECTION OFFICER

To,

1. The Senior Civil Judge cum Assistant Sessions Judge Sangareddy at Sangareddy
2. One CC to Sri Md Ajmal Ahmed, Advocate [OPUC]
3. One CC to Sri Nalla Mukunda Reddy, Advocate [OPUC]
4. One CC to Sri Tarun Madathanapally Advocate [OPUC]
5. Two CD Copies

ADK/gh

Ypr



2025:TSHC:5909

HIGH COURT

DATED:28/02/2025

ORDER

CRP.No.3808 of 2024



DISMISSING THE CRP
WITHOUT COSTS

(7)

Lpr
12/3/25