

HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

CIVIL REVISION PETITION NO. 4533 OF 2014

ORDER:

This Revision is filed challenging the order dated 25.08.2014 in I.A.No. 814 of 2014 in O.S.No. 19 of 2010 of the Principal Junior Civil Judge, Kurnool.

2. Petitioners herein are plaintiffs in the above suit. They filed the said suit against respondents 1 to 5 for perpetual injunction restraining respondents from interfering with their peaceful enjoyment of the suit schedule property. Written statement was filed by the respondents 1 to 5 opposing the suit claim.

3. At that stage, the 6th respondent herein filed I.A.No. 814 of 2014 under Order 1 Rule 8-A CPC to implead him as a party in the suit alleging that the property, which is the subject matter of the suit actually belongs to the State Government and that the Irrigation Department through its Superintending Engineer had lodged the report before the II Town Police Station, Kurnool at the instance of the 6th respondent claiming that the property in question belongs to the Irrigation Department. He contended that the claim for permanent injunction by the petitioners is not maintainable as the plaint schedule property does not belong to them and that he (i.e., 6th respondent) is a person having interest in a question of law i.e., whether the petitioner can claim permanent injunction in respect of property, which does not belong to them; and it is necessary in the public interest to permit him to take part in the above proceedings.

4. This application was opposed by the petitioners. It was contended that the 6th respondent is a stranger to the suit; that he is not at all concerned with the issues in suit; that the plaint schedule property is a private property and not a public property; and at the instance of the private respondents, he is seeking to get impleaded since he is a puppet in their hands. It is also pointed out that 6th respondent filed four Writ Petitions with regard to the suit property in the High Court; that he withdraw Writ Petition No. 17212 of 2011 on 23.9.2011; Writ Petition No. 24651 of 2010 filed by him was dismissed on 11.9.2012; Writ Petition No. 20909 of 2011 filed by him was also dismissed on 28.11.2011; and Writ Petition No. 25843 of 2011 was also dismissed.

5. By order dated 17.10.2014, the Court below allowed the said application invoking its power under Order 1 Rule 8-A CPC on the ground that the issue in the suit "whether the property is a private property or a public property" is to be decided in public interest.

6. Challenging the same, this Revision is filed.

7. Counsel for the petitioner contended that the suit is filed by the petitioners against respondents 1 to 5 alleging that latter were interfering with the peaceful possession and enjoyment of the plaint schedule property; in the written statement filed by the respondents 1 & 5, no plea was taken that plaint schedule property is a public property; the proposed party is a busy body and had filed this application only with a view to harass the petitioners.

8. Counsel for the 6th respondent, however, refuted the above contentions and stated that

the 6th respondent is a Journalist and is very much interested in protecting the plaint schedule property, which according to him belongs to the State Government and in particular to the Irrigation Department.

9. The suit was filed admittedly for perpetual injunction by the petitioner against the respondents 1 to 5 to restrain them from interfering with the peaceful possession and enjoyment of the petitioners. Therefore, the issues, which would arise in the suit are basically “whether the petitioners are in possession of the plaint schedule property on the date of filing of the suit”, “whether they have prima facie case”, “whether balance of convenience is in their favour” and “whether irreparable injury will be caused if injunction is not granted to protect their possession”. In the written statement respondents 1 & 5 have taken the plea that the subject land was assigned to them under pattas. Therefore, it is not the plea of the respondents 1 & 5 also that the subject land is public property.

10. The question whether the property in dispute is a private property or a public property is an extraneous issue, which cannot be gone into in the suit in the light of the pleadings of the petitioners and respondents 1 to 5.

11. Merely because the 6th respondent alleges that the subject land is a public property or that it belongs to the Irrigation Department, that does not entitle him to get impleaded in the suit invoking Order 1 Rule 8-A CPC. The Irrigation Department of the State Government, if it feels that the subject land is a Government land in its occupation or that it is entitled to its possession, can certainly take care of its interests by launching appropriate proceedings to protect its right, title and interest therein. Busy bodies like the 6th respondent cannot be allowed to get impleaded in the suit by invoking Order 1 Rule 8-A CPC. I am also of the view that the question whether the subject property is a private property or a public property is not question of law but a mixed question of law and fact and so the 6th respondent could not have invoked Order 1 Rule 8-A CPC and the Court below could not have allowed it in “public interest”.

12. Therefore, the impugned order dated 17.10.2014 in I.A No. 814 of 2014 in O.S.No. 19 of 2010 is set aside.

13. Accordingly, the Civil Revision Petition is allowed with costs of Rs. 2,000/- (Rupees Two Thousand Only) to be paid by the 6th respondent to the petitioners.

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

JUSTICE M.S.RAMACHANDRA RAO

Date: 18.06.2015
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