

THE HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

C.R.P.No.2056 of 2015

ORDER:

Heard learned Counsel for the petitioners and learned counsel for the respondents.

2. The petitioners are plaintiffs in O.S.No.587 of 2006 on the file of VII Additional District Judge-cum-Special Sessions Judge for SC & ST (POA) Act, Ranga Reddy District at L.B.Nagar.

3. The petitioners have filed suit for specific performance of Agreement of Sale executed by the respondents No.2 to 7. The first respondent herein filed I.A.No.129 of 2015 seeking impleadment as defendant No.7 on the ground that he was a tenant and possessor of the suit land as his grand father and his father were protected tenants. He also stated that Revenue Divisional Officer, Chevella division refused to issue an Occupancy Rights Certificate and the refusal was confirmed by the Joint Collector by his order dated 31.03.2001. The writ petition filed by him in W.P.No.2712 of 2015 was also dismissed. Now the W.A.No.325 of 2009 is pending, hence he stated that he is a necessary party to the suit.

4. A counter was filed by the plaintiffs stating that the husband of seventh defendant was the original protected tenant of the suit land as on the date of vesting i.e., on 01.11.1973. After his death, Occupancy Rights Certificate was issued on 06.08.1994 after conducting thorough enquiry. The petitioner-proposed defendant No.7 preferred appeal before the Joint collector and failed. The agreement of sale dated 01.10.2003 is between the

plaintiffs and the defendants. If the petitioner has got any claim in respect of suit schedule property, he has to approach proper court of law in a suit of specific performance of agreement of sale and third parties have no role to get implead.

4. The trial Court in spite of above averments made in the affidavit and counter-affidavit, allowed the application by order dated 06.04.2015 observing as follows:

“..Both parties admitted that the dispute between proposed parties and Respondent No.7 is going on and it is went up to the High court and writ appeal is pending. The petitioner is agitating his rights before the Revenue Court contending that he is protected tenant. Admittedly writ appeal before Hon'ble High Court is pending in which the Respondent No.7 is a party to the writ appeal. The result of the suit is binding on the parties subjective disposal of the writ appeal. Hence, the proposed petitioner is necessary party to the proceedings.

In view of the above discussions the documents filed by the proposed party clearly shows that he is agitating for his rights before Revenue Court and the matter is pending before the Hon'ble High Court by way of writ appeal. Therefore, the petitioner is necessary party to prove his case...”

5. As seen from the above averments, there is no order in favour of the proposed party as on today. Only W.A.No.325 of 2009 is pending before this Court and Occupancy Rights Certificate was also issued in favour of the first defendant and it was also confirmed by the Joint Collector.

6. In the absence of any semblance of right as on today, the proposed party cannot be impeaded in a suit for specific performance at this stage. However, it is open to the proposed party to take appropriate protective measures in the pending W.A.No.325 of 2009, if so advised. The order of the trial Court

dated 06.04.2015 is erroneous and is accordingly set aside.

7. Accordingly, the Civil Revision Petition is allowed. There shall be no order as to costs. As a sequel, miscellaneous petitions, if any pending in this petition, shall stand closed.

A. RAMALINGESWARA RAO, J

Date: 31.12.2015

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