

THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

CIVIL REVISION PETITION No.4369 of 2014

ORDER:

This revision is preferred by the plaintiff against the orders passed by the I Additional Senior Civil Judge, Kakinada in I.A.No.280 of 2012 in O.S.No.434 of 2010. The plaintiff has taken out I.A.No.280 of 2012 in the suit proposing to implead respondent Nos.3, 4 and 5 as defendants to the suit.

It is appropriate to notice that O.S.No.434 of 2010 is instituted seeking declaration of title in respect of plaint 'B' schedule property and for recovery of possession of the said property shown as CDEF in the plaint plan from the defendant who is impleaded as 1st respondent to the I.A. as well as in this revision. The defendant has pointed out that the plaintiff has claimed ownership and title to the plaint 'B' schedule property by way of a registered sale deed dated 09.07.1976 executed by Smt.Nallamilli Padmavathi and another and that he was in possession of plaint 'B' schedule property ever since the date of its purchase and that in the month of June, 2010 the defendant/1st respondent herein has highhandedly encroached over the plaint 'B' schedule property and made constructions thereon. Hence, the suit for declaration and recovery of possession of plaint 'B' schedule property from the defendant/1st respondent has been instituted.

The 1st respondent/defendant contended that the plaintiff's vendor and the neighbouring ryots have laid out their land into house sites under L.P.No.118/94 and by virtue of the same the vendor of the plaintiff as well as the plaintiff himself sold away some plots to third parties and subsequently plaintiff's vendor and the plaintiff have

partitioned the remaining plots by virtue of registered partition deed dated 23.07.1997 and subsequently the defendant/1st respondent herein has purchased a vacant site in an extent of 222.23 sq.yds through registered sale deed dated 02.01.2010 and after obtaining the necessary permissions from the local municipality started making constructions thereon in his own right and that he never encroached upon the plaint 'B' schedule property allegedly owned by the plaintiff herein.

The inspiration for filing I.A.No.280 of 2012 seeking impleadment was that when the plaintiff has taken out I.A.No.600 of 2010 for appointment of Advocate-commissioner for measuring the properties of both the parties with reference to the respective documents, with the help and assistance of the Mandal Surveyor, some of the neighbouring owners of land have objected for measuring the land held and owned by them. Hence, the present implead application is filed.

The Court below has considered the entire issue in a proper perspective and has come to the conclusion that the proposed parties are neither necessary nor proper parties for adjudicating the issue in the suit. The plaintiff has sought for declaration of his title and recovery of possession of the plaint 'B' schedule property from the 1st defendant/1st respondent. Therefore, the proposed parties are neither necessary nor proper parties for adjudicating the main *lis*.

Since there is no illegality committed by the Court below in exercise of its jurisdiction, this revision is without any merit and it is, accordingly, stands dismissed. No order as to costs.

The miscellaneous petitions, if any pending in this revision, shall stand closed.

JUSTICE NOOTY RAMAMOHANA RAO

Date: 04-03-2015

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