

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

C.R.P.No.4214 of 2014

ORDER :

This Civil Revision Petition is filed under Article 227 of the Constitution of India challenging the order dt.18.09.2014 in I.A.No.414 of 2014 in O.S.No.900 of 2013 on the file of XXIV Additional Chief Judge, City civil Court, Hyderabad.

2. Petitioners herein are defendants 1 to 3 in the suit. The 4th respondent and petitioners 2 and 3 are the sons of the 1st petitioner.

3. The 4th respondent herein filed the said suit for partition against the petitioners in respect of the plaint schedule properties seeking 1/4th share therein along with recovery of certain amounts.

4. The wife and daughters of the 2nd petitioner filed an application under Order I Rule 10 CPC to get impleaded in the suit. In the affidavit filed in support of the said application, the 1st respondent contended that the 2nd petitioner had deserted them and thrown them out of the matrimonial house after subjecting her to torture and harassment; that she and her daughters had filed DVC and also a criminal case under Section 498-A IPC against the petitioners apart from a case seeking maintenance against the 2nd petitioner; the 2nd petitioner, in collusion with other petitioners, had planned to defraud and deprive respondents 1 to 3 of their legitimate rights; and to avoid payment of maintenance to the 1st respondent and to respondents 2 and 3, he got filed suit for partition. She further alleged that the 2nd petitioner may also try to dispose of and transfer his proposed share to any third parties to deprive the legitimate and legal rights of her children, and that the petitioners are acting hand-in-glove with the 4th respondent to create a fiction of partition so as to deprive the respondents 1 to 3 of their rights

in the suit schedule properties. She therefore alleged that the respondents 1 to 3 should be impleaded as defendants 4 to 6 in the suit, so that she can ensure that any rights of respondents 2 and 3 in respect of the plaint schedule property or the share to be allotted to the 2nd petitioner, would be safeguarded.

5. Counter affidavit was filed on behalf of the petitioners opposing the said application and contending that the 1st respondent is acting against the interest of respondents 2 and 3 instead of protecting their interests. They allege that the 4th respondent and the 1st respondent are interested only in the property and to knock away the benefits there from. The 2nd petitioner contended that he is paying maintenance as ordered by the Court and was never negligent or irresponsible towards respondents 2 and 3, who are his children. He alleged that the 1st respondent has foisted false cases against him. The allegation of fraud or collusion alleged by respondents 1 to 3 were denied and it was contended that the application is filed only with an apprehension that the 2nd petitioner may dispose of or transfer his share in the property in favour of a third party and there is no truth in it. It is also alleged that respondents 1 to 3 do not go against the wish of the 1st petitioner and they are likely to receive benefits in future, and the 1st petitioner may settle a portion of his right and interest to the 2nd petitioner and to respondents 1 to 3.

6. By order dt.18.09.2014 the Court below allowed the said application. It rejected the contentions of the petitioners and held that since the respondents 1 to 3 are coming on record for claiming a share out of the proposed share to be allotted to the 2nd petitioner, in the interest of welfare of respondents 2 and 3, the application of impleadment is liable to be allowed.

7. Challenging the same this Revision is filed.

8. Sri C.V.R.Rudra Prasad, Counsel for the petitioners submits that the Court below erred in impleading respondents 1 to 3 as defendants 4 to 6 in the suit; that the allegation of collusion made by respondents 1 to 3 against the 2nd petitioner with his other family members is a false allegation; it was the 4th respondent who initiated the litigation and not the 2nd petitioner; and taking into account the conduct of the 1st respondent in filing complaint under Section 498-A IPC, DVC and maintenance case against the 2nd petitioner and other family members of the 1st petitioner, her impleadment would cause embarrassment to the 2nd petitioner, and would not in any way assist the Court below in deciding the suit.

9. Counsel for respondents 1 to 3 refuted the above contentions and supported the order passed by the Court below. He contended that when serious allegation of collusion between the petitioners and the 4th respondent are raised by the respondents 1 to 3, and the respondents 1 to 3 have also contended that the suit was instituted only as a mock-fight between the 4th respondent and petitioners 1 to 3, and there is an apprehension that the 2nd petitioner may even dispose of the share which he is likely to get in the suit, the respondents 1 to 3 are entitled to get impleaded and there is no error of jurisdiction in the order passed by the Court below in allowing impleadment of respondents 1 to 3 as defendants 4 to 6 in the suit. He also contended that impleadment of respondents 1 to 3 would enable the Court to effectively and completely adjudicate upon and settle all the questions involved in the suit and therefore, the CRP be dismissed.

10. I have noted the submissions of both sides.

11. Order I Rule 10(2) CPC entitles the Court at any stage of the suit to add parties as plaintiff or defendant, if in its opinion, they ought to be

joined or if it feels that their presence is necessary to enable the Court to effectively and completely adjudicate upon and settle all the questions involved in the suit.

12. In the present case, it is the specific allegation of the respondents 1 to 3 that there is a collusion between the 2nd petitioner, who is the husband of the 1st respondent and father of respondents 2 and 3, with other family members and he got the suit filed in order to deprive respondents 1 to 3 of their legitimate rights for maintenance and share in the property.

13. Admittedly, there are disputes between the 1st respondent on the one hand and the petitioners on the other hand and a DVC case apart from a maintenance case and a case for the offence under Section 498-A IPC, are pending.

14. In the circumstances, whether or not the allegations made by the 1st respondent against the 2nd petitioner are true or not, on which a finding would be given in those proceedings, there is nothing unusual in the 1st respondent entertaining a suspicion against the 2nd petitioner and his family members of an attempt to defeat the rights of the respondents 2 and 3 in the suit schedule properties or right of the 1st respondent right to claim maintenance. Of course this Court is not stating that respondents 2 and 3 have any share in the suit schedule properties, since the said issue would have to be framed and decided in the suit.

15. It cannot therefore be said that the presence of the respondents 1 to 3 as parties in the suit would not enable the Court to effectively and completely adjudicate upon and settle all the questions involved in the suit.

16. Therefore, I am of the opinion that the Court below has rightly

allowed I.A.No.414 of 2014 in O.S.No.900 of 2013 and there is no error of jurisdiction in the said order.

17. The Civil Revision Petition is therefore dismissed. There shall be no order as to costs.

18. Consequently, miscellaneous petitions pending, if any, shall stand dismissed.

M.S.RAMACHANDRA RAO, J

13th August, 2015
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