

The Hon'ble Sri Justice C.V.Nagarjuna Reddy

Civil Revision Petition No.4906 of 2014

-
Dated 05.02.2015
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Between:

G.Shravan Kumar

...Petitioner

and

Narasamma and 7 others

...Respondent

**Counsel for the Petitioner: Mr.G.V.Ramana
Murthy**

Counsel for the respondents: ---

The Court made the following:

Order:

This Civil Revision Petition arises out of Order, dated 27.10.2014, in IA.No.546 of 2014 in OS.No.237 of 2006, on the file of the Court of the learned Senior Civil Judge at Vikarabad, Ranga Reddy District.

I have heard Mr.G.V.Ramana Murthy, learned Counsel for the petitioner, and perused the record.

The petitioner filed the above-mentioned suit

for partition and separate possession. It is his pleaded case that he is the son of one Narsimlu, who is the head of Hindu Undivided Family comprising himself, the petitioner and respondent Nos.4 to 7; that the head of the family has died; and that therefore, the petitioner is entitled to a share in the joint family properties. Pending the suit, respondent Nos.1 to 3 have filed IA.No.546 of 2014 under Order I Rule 10 of the Code of Civil Procedure, 1908 (CPC) for their impleadment as defendant Nos.6 to 8 in the suit on the ground that the first wife of late Narsimlu had left him for one year after their marriage; that thereafter, he has married respondent No.1, through whom respondent Nos.2 and 3 were born; and that therefore, they are entitled to shares in the joint family properties.

The petitioner has filed a counter-affidavit opposing the said application by taking the plea that as the alleged marriage of late Narsimlu with respondent No.1 was not legal and valid, the children (respondent Nos.2 and 3) born out of such relationship have no right to claim share in the joint family properties. However, the lower Court has allowed the said application.

The learned Counsel for the petitioner submitted that the lower Court has committed a serious error in allowing the said application as respondent No.1, not being a legally wedded wife of late Narsimlu, even if respondent Nos.2 and 3 are treated as legitimate children, they are not entitled to any share in the joint family properties. He has placed reliance on a judgment of this Court in **Jagarlamudi Sujata and another vs. Jagarlamudi Jagadish Krishna Prasad and others**^[1].

The questions whether the marriage of late Narsimlu with respondent No.1 was legal, whether respondent Nos.2 and 3 are their legitimate children or not and, even if they are legitimate children, whether they are entitled to claim share in the joint family properties do not arise for consideration at this stage.

The fact that there was a relationship between late Narsimlu and respondent No.1 and that respondent Nos.2 and 3 were born out of such relationship does not appear to be in dispute. Therefore, it cannot be said that in a suit for partition, respondent Nos.1 to 3 are not proper

parties, if not necessary parties. The right of respondent Nos.1 to 3 to get their respective shares in the joint family properties, as claimed by them, depends upon the issues such as the legitimacy of the alleged marriage between late Narsimlu and respondent No.1 and the birth of respondent Nos.2 and 3 out of such wedlock. In a suit for partition, it is always appropriate that the persons, who made out a *prima facie* case of their interest in the joint family properties, are impleaded in order to avoid multiplicity of proceedings. From this perspective, I am of the opinion that the impleadment of respondent Nos.1 to 3 as defendant Nos.6 to 8 in the suit does not suffer from any illegality or jurisdictional error warranting interference of this Court in exercise of its supervisory jurisdiction under Article 227 of the Constitution of India.

For the above-mentioned reasons, the Civil Revision Petition is dismissed.

As a sequel to dismissal of the Civil Revision Petition, CRPMP.No.6672 of 2014, filed by the petitioner for interim relief, is dismissed as infructuous.

(C.V.Nagarjuna Reddy, J)

Dt: 5th February, 2015

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[\[1\]](#) 1992 (1) ALT 503