

THE HON'BLE SRI JUSTICE K.C.BHANU

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CIVIL REVISION PETITION No.18 OF 2015

ORDER:

This Civil Revision Petition, under Article 227 of the Constitution of India, is filed aggrieved by the order and decree, dated 06.11.2014, in Interlocutory Application No.1227 of 2012 in Original Suit No.479 of 2006 passed by the Principal Junior Civil Judge, Sattenapalli.

2. Petitioner/proposed defendant No.3 filed the aforesaid Interlocutory Application under Order I Rule 10 and Section 151 of the Code of Civil Procedure, 1908 (for short, "CPC") to implead him in the main suit and to amend the plaint. That petition was dismissed on the ground that the petitioner did not accrue any right over item No.3 of the schedule property and he failed to explain as to how he is a proper and necessary party to the suit. Challenging the same, the present Civil Revision Petition is filed.

3. Learned counsel for the petitioner contended that the petitioner has got substantial interest in defending his right in respect of item No.3 of the plaint schedule property; that the petitioner had purchased the same under an agreement of sale and hence, he is a necessary and proper party to the suit; that in order to avoid multiplicity of proceedings, the petitioner can be impleaded in the suit and hence, he prays to allow the Civil Revision Petition.

4. On the other hand, learned counsel for the respondents opposed the same on the ground that regular sale deed has not been executed in pursuance of the agreement of sale; that the petitioner is not a necessary and proper party to the suit and hence, he prays to dismiss the Civil Revision Petition.

5. Under Order I Rule 10 CPC two conditions are required to be fulfilled by the person, who approaches the Court to implead him as a party to the suit viz., 1) the person has got some semblance of right over the property and 2) his case would be prejudiced, in case he is

not impleaded in the suit.

6. Petitioner claims that he entered into an agreement of sale with respondent No.2/defendant No.1 on 14.09.2005 for purchase of Ac.1-18 cents of dry land for a total sale consideration of Rs.1,71,000/- and possession of the property was delivered to him. When defendant No.1 is avoiding to execute a regular sale deed, the petitioner filed a suit vide Original Suit No.963 of 2011 on the file of the Principal Senior Civil Judge, Guntur (which was renumbered as Original Suit No.319 of 2013 on the file of the Senior Civil Judge, Sattenpalli) for specific performance of contract. In the mean time, the daughter of respondent No.2, who is respondent No.1 herein, filed a suit against him and respondent No.3 for partition of the plaint schedule properties. The said suit was decreed and preliminary decree was passed on 31.08.2010 determining the rights of the parties. When the case was coming on for passing of final decree, the present application was filed to implead the petitioner as a party to the suit. As the petitioner has no semblance of right at present and he is only an agreement holder, he cannot be permitted to come on record. Law is well settled that the agreement of sale does not confer any title. In view of the fact that the petitioner had already filed a suit for Specific Performance of the Contract and the same is pending and unless that suit is decreed, the petitioner will not have any right over the property in question.

7. Accordingly, the Civil Revision Petition is dismissed leaving open the remedies, if any, available to the petitioner in case he succeeds in the suit filed by him. There shall be no order as to costs. Miscellaneous petitions, if any, pending in this revision shall stand closed.

JUSTICE K.C.BHANU

MARCH 13, 2015

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DATE: 13.03.2015

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