

HON'BLE SRI JUSTICE R. SUBHASH REDDY

CIVIL REVISION PETITION No.1389 of 2015

ORDER :

This Civil Revision Petition, under Article 227 of the Constitution of India, is filed by the petitioners/defendants aggrieved by the order and decree dated 14.08.2014 in I.A.No.735 of 2012 in O.S.No.272 of 2010 passed by the VII Additional District and Sessions Judge, Vijayawada, Krishna District, allowing the application filed by the 2nd respondent under Order XXII, Rule 3 r/w. Section 151 of C.P.C., to implead her as legal representative of the deceased-1st respondent/plaintiff-Manchineni Rama Sastrulu i.e., as 2nd plaintiff in O.S.No.272 of 2010 as she is a proper and necessary party to the suit proceedings.

2. Originally, the 1st respondent herein ie., Machineni Rama Sastrulu has filed the aforesaid suit for cancellation of the Registered Gift Deed dated 20.8.2010 executed by the 1st petitioner/1st defendant, who is his son, in favour of the 2nd petitioner/2nd defendant, who is his daughter-in-law. During the pendency of the suit, the 1st respondent/plaintiff died on 26.5.2012 and the 2nd respondent herein has filed an application in I.A.No.735 of 2012 in O.S.No.272 of 2010 seeking to implead her as the legal representative of the deceased 1st respondent/plaintiff, claiming right over the suit schedule property based on a Will dated 18.12.2010 alleged to have been executed by her father in her favour. Basing on the material available on record, the Court below has allowed the said application through the impugned order dated 14.8.2014. Hence, the present civil revision petition.

3. It is contended by Sri M. Chalapathi Rao, learned counsel for the petitioners/defendants that in the plaint itself the deceased-1st plaintiff has stated that the suit schedule property has been gifted in favour of the grand-children, as such, there is no subsisting right for the 1st respondent/plaintiff to transfer the same in favour of the 2nd respondent by way of a Will dated 18.12.2010.

4. Having heard learned counsel for the petitioners, I have perused the impugned order and the material on record.

5. Whether the 1st respondent/plaintiff is having subsisting right or not is a matter to be decided at the time of disposal of the main suit after completion of trial, but the same cannot be a ground to reject the application filed by the 2nd respondent for her impleadment as the legal representative of the deceased-plaintiff. As the 2nd respondent is claiming the suit schedule property based on a Will dated 18.12.2010 and further as it is not in dispute that she is the daughter of the deceased-Machineni Rama Sastrulu, who originally filed the suit, this Court does not find any illegality in the impugned order, warranting interference by this Court under Article 227 of the Constitution of India.

6. For the aforesaid reasons, this civil revision petition is devoid of merits and is accordingly dismissed, at the admission stage. As a sequel, miscellaneous petitions pending, if any, shall stand closed. No order as to costs.

JUSTICE R. SUBHASH REDDY

17.04.2015.

Msr

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