

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

C.R.P. No. 4961 of 2014

ORDER:

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This Civil Revision Petition is filed under Article 227 of the Constitution of India challenging the order dt.10.09.2014 in I.A.No.295 of 2014 in O.S.No.596 of 2013 of the XVII Additional Senior Civil Judge, City Civil Court, Hyderabad.

2. The petitioner herein is a third party to the above suit. The above suit was filed by the 1st respondent against the 2nd respondent for eviction alleging that she is the owner of the plaint schedule property that the 2nd respondent is her tenant and that she terminated the tenancy of the 2nd respondent by issuing a notice under Section 106 of the Transfer of Property Act, 1882 (for short 'the Act').

3. Written Statement was filed by the 2nd respondent opposing the suit claim.

4. The petitioner herein then filed I.A.No.295 of 2014 under Order 1 Rule 10(2) CPC to implead him as 2nd defendant in the suit alleging that he is the absolute owner of the plaint schedule property; that the 1st respondent is not the owner thereof and she had no right over the plaint schedule property. He also claimed that he is the husband of the 1st respondent and that there were disputes between him and the 1st respondent. It is alleged that at the time of purchase of the property, the petitioner was not present and taking advantage of his absence, the 1st respondent got the property registered on her name and that the petitioner is the real owner of the plaint schedule property. He also stated that he had filed O.P.No.1635 of 2013 before the Additional Family Court, Hyderabad against the 1st respondent

seeking declaration of his title to the plaint schedule property and, therefore, he is entitled to be impleaded in the suit as 2nd defendant.

5. The 1st respondent filed counter opposing this application. She denied the allegations of the petitioner and contended that she is the absolute owner of the plaint schedule property and not the petitioner. She denied the allegation that taking advantage of the absence of the petitioner, sale deed in respect of the property was registered in her name even though he is the real owner. She also referred to several proceedings between herself and the petitioner in various forums including O.P.No.1635 of 2013 referred to above. She also denied the plea of the 2nd respondent that he is an employee of M/s.Rukku's Dental Hospital Pvt. Ltd., and reiterated that he is her tenant.

6. By order dt.10.09.2014, the Court below dismissed the said application. It held that since the suit is filed for eviction, mesne profits, scope of the main suit is very limited; that the petitioner failed to file any document to show that he is the owner of the plaint schedule property; that since he also admitted that the plaint schedule property is registered in the name of the 1st respondent, he is not entitled to be impleaded in the suit as 2nd defendant.

7. Challenging the same, this Revision petition is filed.

8. Counsel for the petitioner contended that the Court below erred in refusing to implead the petitioner as 2nd defendant in the suit; that the petitioner is the husband of the 1st respondent and the 1st respondent had no means with which she could have purchased the plaint schedule property; that the petitioner is the actual owner thereof and the 2nd respondent is his employee; and therefore, since the petitioner has a substantial interest in the plaint schedule property, he should be impleaded as a party in the suit.

9. Admittedly, the suit is filed for eviction of the 2nd respondent by the 1st respondent alleging that 1st respondent is the owner of the plaint schedule property and the 2nd respondent is her tenant and his tenancy has been terminated by a notice under Section 106 of the Act. Therefore, the questions for consideration in the suit are “whether there exist the relationship of landlord and tenant between the 1st respondent and 2nd respondent” and “if so, whether the said tenancy has been validly terminated”. The question of title to the property i.e., whether 1st respondent or petitioner own it, is extraneous to the suit. It may be true that both the 2nd respondent and petitioner deny the title of the 1st respondent to the plaint schedule property, but the said issue cannot be decided in this suit. Since O.P.No.1635 of 2013 is pending on the file of the Additional Family Court, Hyderabad wherein the petitioner had sought for declaration of title to the plaint schedule property impleading the 1st respondent as a respondent therein, the said issue can be got decided therein.

10. I, therefore, do not find any error of jurisdiction in the order passed by the Court below in refusing to implead the petitioner as 2nd defendant in the suit.

11. Accordingly, the Civil Revision Petition is dismissed. There shall no order as to costs.

12. Miscellaneous petitions pending, if any, in this appeal shall stand closed.

M.S.RAMACHANDRA RAO, J

02nd July, 2015.
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