

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

C.R.P.No.4696 of 2013

ORDER:

Heard Sri N.Kama Raju, learned counsel for the petitioners and M.Srikanth Reddy, learned counsel for the respondents.

2. This Revision Petition is filed challenging the order dt.19-08-2013 in I.A.No.100 of 2013 in O.S.No.37 of 2009 of the Principal Junior Civil Judge, Ranga Reddy District at Medchal.
3. Petitioners herein are plaintiffs in O.S.No.37 of 2009 filed by them against the 2nd respondent for partition and separate possession of the suit schedule properties. One of the items mentioned in the plaint schedule is an extent of Ac.0.14 gts in Sy. No.930 of Upperpally village (earlier hamlet of Shamirpet), Ranga Reddy District.
4. The 1st respondent filed I.A.No.100 of 2013 under Order I Rule 10 CPC alleging that he has obtained a registered agreement of sale-cum-GPA on 21-09-2004 from K.Balamma and children and her predecessors in title in respect of an extent of Ac.1.10 gts in Sy. No.930 (930/C) of the same village; AND without impleading him, the suit has been initiated in respect of the same property which is in his occupation. He further alleged that incorrect boundaries had been given in the plaint schedule for this item of property by the petitioners and that the land claimed by them in fact does not exist. He also stated that there is suit O.S.No.56 of 2010 filed for declaration and recovery of possession by the petitioners against him.
5. Petitioners filed a counter affidavit opposing this application

denying the right of the 1st respondent to get impleaded in the suit. It is alleged that 1st respondent is in fact colluding with 2nd respondent/defendant. They admitted that they have filed O.S.No.56 of 2010 for declaration of title and for perpetual injunction against 1st respondent. They contended that if that is decreed, 1st respondent would have no right, title and interest in the subject property and since their vendor has also been impleaded in the said suit, 1st respondent has no right in the suit schedule property in Sy. No.930.

6. By order dt.19-08-2013, the Court below allowed the said application. It held that to avoid multiplicity of litigation and proper adjudication of shares in the suit for partition, the parties must prove clear title over the property in which they are claiming a share and that since the petitioners themselves have impleaded the 1st respondent in O.S.No.56 of 2010 and since he is claiming title over the suit property, he is a necessary party to the suit.
7. Although the learned counsel for the petitioners contended that 1st respondent ought not to have been impleaded as a party in the suit O.S.No.37 of 2009, since 1st respondent is claiming an interest in land in Sy. No.930 which is subject matter of O.S.No.37 of 2009 and since the petitioners have themselves impleaded him in O.S.No.56 of 2010 and had sought a declaration of title in respect of the said property, I am of the view that the Court below had rightly impleaded 1st respondent in this suit O.S.No.37 of 2009 also.
8. I therefore do not find any merit in the Civil Revision Petition and the same is accordingly dismissed. No costs.

9. As a sequel, the miscellaneous petitions pending, if any, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 18-09-2015

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