

HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

CIVIL REVISION PETITION No.4543 of 2014

Date:05.02.2015

Between:

A.Venkateshwarlu,
S/o Chalamaiah

..... **Petitioner**

And:

A.Madhava Reddy,
S/o Muthyam Reddy and four others.

.....**Respondents**

Counsel for the petitioner: Ms Manjushah Bharadwaj

For Sri Sreenivasa Rao Velivela

Counsel for the Respondents: ---

The Court made the following:

ORDER:

This Civil Revision Petition arises out of order, dated 20.08.2014, in IA.No.259 of 2013 in OS.No.24 of 2009 on the file of learned V Additional District Judge, (Fast Track Court), Ranga Reddy District at L.B.Nagar.

Respondent No.1 has filed the above-motioed suit for declaration of title, cancellation of certain registered documents and recovery of possession against respondent Nos.2 to 5. In the said suit, he has filed I.A.No.259 of 2013 under Order-I Rule-10(2) read with Section 151 of the Code of Civil Procedure for impleading

the petitioner as defendant No.5. By the order under revision, the lower Court has allowed the said application.

I have heard Ms. Manjusha Bharadwaj, learned counsel representing Sri Sreenivasa Rao Velivela, learned counsel for the petitioner and perused the record.

Learned counsel for the petitioner has forcefully argued that the lower Court has committed a jurisdictional error in ordering impleadment of the petitioner for two reasons, viz., (1) that he has purchased a part of the suit schedule property on 27.07.2006 itself, i.e., much prior to the filing of the suit; and (2) that the lower Court ought not to have allowed the application for impleadment of the petitioner without respondent No.1 seeking consequential amendment of the pleadings. In support of her plea, she has relied upon Rule-28 of the Civil Rules of Practice.

I have carefully considered the submissions of learned counsel for the petitioner with reference to the record.

Though a copy of the plaint is not filed in the Civil Revision Petition, however, from the affidavit filed in I.A.No.259 of 2013, it is discernable that the reliefs claimed in the suit include that of declaration of title and also cancellation of the registered documents besides recovery of possession. Respondent No.1 has sought impleadment of the petitioner on the ground that after the filing of the suit, he came to know that respondent Nos.2 to 5 have sold a part of the suit schedule property to the petitioner under a registered sale deed.

As rightly pointed out by learned counsel for the petitioner, mere impleadment of the petitioner without claiming the consequential relief of setting aside the sale

made in his favour may not serve the purpose of his impleadment. However, the failure of respondent No.1 to claim the consequential relief by way of amendment of the pleadings may not be relevant at this stage because Rule-28 of the Civil Rules of Practice does not envisage amendment to pleadings following an order passed under Order-1 Rule-10 CP.C. Hence, non filing of an application for amendment of the pleadings cannot be treated as a formal defect entailing in dismissal of the application filed under Order-1 Rule-10 C.P.C.

As regards the purpose of impleadment of the petitioner, respondent No.1 has pleaded that he is a purchaser of a part of the suit schedule property from respondent Nos.2 to 5 and that hence, he is a necessary and proper party.

In my opinion, being the purchaser of a part of the suit schedule property, the petitioner can be said to be a proper party, if not a necessary party. If respondent No.1 has not sought consequential amendment, the petitioner can seek dismissal of the suit *qua* himself. Far from causing any prejudice to the petitioner, his impleadment would one way help him in avoiding multiplicity of proceedings.

For the above-mentioned reasons, I do not find any jurisdictional error in the order of the lower Court for interference by this Court in exercise of its supervisory jurisdiction under Article-227 of the Constitution of India.

The Civil Revision Petition is, accordingly, dismissed.

As a sequel to dismissal of the Civil Revision Petition, CRPP.No.6209 of 2014 filed by the petitioner for interim relief is dismissed as infructuous.

*JUSTICE C.V.NAGARJUNA
REDDY*

*05th February, 2015
DR*