

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

CRP.No.5420 of 2009

ORDER :

This Revision is filed challenging the order dt.04.08.2009 in I.A.No.32 of 2007 in O.S.No.1473 of 2003 on the file of XV Junior Civil Judge – cum – III Additional Rent Controller, Hyderabad.

2. This Revision has been dismissed against respondent nos.2 to 5 for non-payment of process fee.
3. The 1st respondent/plaintiff filed a suit for recovery of possession of plaint schedule property against petitioners.
4. The petitioners herein filed I.A.No.32 of 2007 praying the court to implead respondent nos.2 to 5 as defendant nos.3 to 6 in the suit. They alleged that the plaint schedule property was donated by husband of 1st petitioner to the proposed parties, and in spite of knowing this fact, the 1st respondent/plaintiff did not implead them.
5. By the impugned order, the Court below dismissed the said application stating that the suit, being one for recovery of possession, if persons other than defendants are in possession of plaint schedule property, it is the look-out of 1st respondent/plaintiff to implead such persons; in the present case, the 1st respondent/plaintiff is seriously disputing the possession of proposed parties of the plaint schedule property; and therefore, the application is without any merit. It also observed that there is no material filed to show that the proposed

parties are in possession of a portion of plaint schedule property and they have also not approached the court to implead themselves as parties in the present suit or in earlier proceedings.

6. Questioning the same, this Revision is filed by petitioner.
7. Heard Sri C.B. Ram Mohan Reddy, counsel for petitioners, and Sri G.S. Prakash Rao, counsel for 1st respondent.
8. The counsel for petitioners would contend that the Court below erred in dismissing the I.A. and ought to have impleaded respondent nos.2 to 5 as parties in the suit.
9. Admittedly, the Revision is dismissed against respondent nos.2 to 5, the proposed parties, for non-payment of process.
10. No material is placed before this Court to show that respondent nos.2 to 5 are in possession of plaint schedule property.
11. As rightly observed by the trial Court, this being a suit for recovery of possession, it is the look-out of plaintiff to implead persons who are in possession of the plaint schedule property. If the 1st respondent/plaintiff does not accept that respondent nos.2 to 5 are in possession of the plaint schedule properties, he cannot be compelled to implead them. Since he is the *dominis litis*, he cannot be compelled to litigate against respondent nos.2 to 5 against his will.
12. Therefore, I do not find any merit in this Revision and it is accordingly dismissed. No order as to costs.
13. Miscellaneous applications, pending if any in this Revision, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 08-06-2015

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