

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

C.R.P.Nos.1208, 1209 & 1210 of 2009

COMMON ORDER:

The petitioners in all these Revision Petitions are one and the same and all these Revision Petitions arise out of the same suit. Therefore, they are being disposed of by this common order.

2. The suit was filed by the petitioners against respondent Nos.2 and 3 for a perpetual injunction restraining the respondent Nos.2 and 3 from interfering with their peaceful possession and enjoyment of the plaint schedule property which is said to be agricultural land in Sy. Nos.188 and 189 of Dayara village, Keesara Mandal, Ranga Reddy District.

3. An interim injunction was also obtained by the petitioners against respondent Nos.2 and 3.

4. While so, the respective 1st respondents filed I.A.Nos.2245, 2246 of 2008 and 80 of 2009 in the suit to implead themselves as defendants in the suit. They contended that they had purchased plots of land in Sy. Nos.189 and 190 of Keesara village; that one Malya Dayanand obtained a layout from the Sarpanch of Keesara Grampanchayat from 11-10-1985 in respect of extent of Ac.4.20 gts in Sy. Nos.189 and 190 of Keesara

village; thereafter the land was carved out into 61 residential plots leaving roads; that the respective 1st respondents purchased individual plots; and taking advantage of the interim injunction granted in their favour, the petitioners are trying to interfere with their possession and enjoyment of the plots purchased by them. They also contended that the petitioners have misrepresented that the lands in question were agricultural lands when in fact they were not agricultural lands.

5. Counter affidavit was filed by 1st petitioner herein contending that the suit is for a perpetual injunction; that the relief of perpetual injunction is only against the person named therein as a defendant; that the respective 1st respondents have no right, title or interest in the plaint schedule property and the sale deeds on which they rely are illegal and sham documents; that the respective 1st respondents are in no way connected with the plaint schedule property and if they have any grievance, they should file separate suit against the petitioners.

6. By separate orders dt.02-02-2009, the Court below allowed these applications. It referred to the contentions of both parties and expressed the view that boundaries of the properties claimed by the respective 1st respondents do not tally with the plaint schedule property, that plaint schedule property is of larger extent and since the respective 1st respondents are claiming land in the

same

Sy. No.189, they are necessary and proper parties to the suit and have to be impleaded in order to avoid multiplicity of proceedings between the parties.

7. Challenging the same, these Revision petitions are filed by the petitioners/plaintiffs.

8. Learned counsel for the petitioners contended that the Court below erred in allowing these applications filed by the respective 1st respondents. He contended that the suit being one for perpetual injunction against respondent Nos.2 and 3 only, it is not proper for the Court below to allow the claims of the respective 1st respondents also to be included, since any relief of which petitioners prayed do not apply to the respective 1st respondents. He stated that his clients have no objection if interim injunction or the perpetual injunction, which may be ultimately granted in favour of the petitioners/plaintiffs in the suit, is confined only to respondent Nos.2 and 3 and is made inapplicable to the respective 1st respondents. He also placed reliance on the judgment of this Court in **Kunisetti Gangi Reddy Vs. Kukkuteswara Swamy Temple rep. by its Executive Officer and others**^[1].

9. Learned counsel for the respective 1st respondents on the other hand supported the orders passed by the Court below.

10. The point for consideration therefore is whether the respective 1st respondents can claim to be impleaded in the suit in question filed by the petitioners against respondent Nos.2 and 3 seeking relief of perpetual injunction?

11. A similar issue arose for consideration in **Kunisetti Gangi Reddy** (1 supra). In that case also in a suit for mere injunction against respondent Nos.2 to 6 therein, the 1st respondent sought to get impleaded. This Court held that since the suit is for mere injunction against respondent Nos.2 to 6, any decree, if passed therein, could not bind 1st respondent; and if the latter is of the view that the suit would affect their interest, they were free to file a suit claiming appropriate relief. It held that it is not a matter wherein they should be allowed to come on record as defendants in a suit for injunction.

12. Admittedly, the petitioners are plaintiffs and they filed the suit for perpetual injunction against respondent Nos.2 and 3. The relief of perpetual injunction is a relief *in personam* and will apply only to the respondent Nos.2 and 3 or the persons claiming through them. The respective 1st respondents are not claiming through the respondent Nos.2 and 3 at all. Their claim is independent. Since the plaintiffs are *dominis litis*, they cannot be compelled to litigate against persons against whom they do not wish to litigate. The relief of perpetual

injunction or temporary injunction which they seek in the suit would find only apply to respondent Nos.2 and 3 or the persons claiming through them and will not bind the respective 1st respondents. If the respective 1st respondents have any claim or apprehension that the right, title or interest in the properties claimed by them is likely to be affected on account of any conduct on the part of the petitioners, it is open to them to file a separate suit against the petitioners.

13. For these reasons, impugned orders in these Revision Petitions cannot be sustained. They are accordingly set aside giving liberty to the respective 1st respondents to file separate suits against the petitioners, if they are so advised and further clarifying that the order of temporary injunction granted pending the suit or the order of perpetual injunction which may be granted, if the suit is decreed, will not bind on the respective 1st respondents.

14. All the Civil Revision Petitions are allowed with the above observations. No costs.

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

JUSTICE M.S.RAMACHANDRA RAO

Date: 22-06-2015

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[\[1\]](#) 1993 (1) ALT 677