

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

CIVIL REVISION PETITION No.1284 of 2010

ORDER:

This Civil Revision Petition is filed under Article 227 of the Constitution of India challenging the order dt.19-02-2010 in I.A.No.739 of 2009 in O.S.No.1991 of 2007 of the IX Junior Civil Judge, City Civil Court at Hyderabad.

2. The petitioner is plaintiff in the above suit. She filed the suit against 5th respondent seeking a perpetual injunction restraining him from interfering with the alleged peaceful possession and enjoyment of petitioner in respect of the plaint schedule property.

3. In the plaint, it is the case of petitioner that she purchased the plaint schedule property from M.Danaiah and M.Sham Rao under an agreement of sale dt.16-01-1995. It was specifically alleged in the plaint in para-4 that respondent Nos.1 to 4, on 24-04-2007 came with police bandobast to the plaint schedule property without any prior notice and without serving any notice to petitioner and suddenly started trespassing into the plaint schedule property and attempted to dispossess the petitioner.

4. Respondent Nos.1 to 4 filed I.A.No.739 of 2009 under Order I Rule 10 CPC claiming that the plaint

schedule property is part of the property belonging to their father. They contended that certificate under Section 38-E of the A.P. (Telangana Area) Tenancy and Agricultural Lands Act, 1950 was also granted to their father and paternal uncle on 15-05-1975. They contended that it was the petitioner, who attempted to interfere along with her husband with the possession of respondent Nos.1 to 4 of an extent 330 sq. yds in Sy.Nos.92, 96/A, 105 and 106 of Hakeempet village, Shaikpet Mandal, Hyderabad, in which the plaint schedule property was located and that the petitioner had filed the suit only to grab the property of respondent Nos.1 to 4.

5. This application was opposed by petitioner, who contended that respondent Nos.1 to 4 have no *locus standi* to implead themselves in the suit and they do not have any claim in respect of the plaint schedule property.

6. By order dt.19-02-2010, I.A.No.739 of 2009 was allowed and respondent Nos.1 to 4 were impleaded in the suit as defendant Nos.2 to 5. After adverting to the contentions of both sides, the Court below held that the dispute between the parties is with regard to possession and enjoyment of the plaint schedule property and therefore the impleadment of respondent Nos.1 to 4 is necessary to enable the Court to effectively and

completely adjudicate upon and settle the issue of possession and enjoyment of the plaint schedule property in the suit.

7. Challenging the same, this Revision is filed.

8. Heard Sri Mohd. Osman Shaheed, learned counsel appearing for Sri Mohd. Adnan, learned counsel for petitioner and Sri J.Ashvini Kumar, learned counsel for respondent Nos.1 to 4.

9. The learned counsel for petitioner would contend that respondent Nos.1 to 4 had filed O.S.No.927 of 2007 before the XIX Junior Civil Judge, City Civil Court, Hyderabad, that the said suit was dismissed on 08-08-2012 and that a further appeal has been preferred against the said judgment.

10. The learned counsel for respondent Nos.1 to 4 however contends that the subject matter of O.S.No.927 of 2007 is different from the subject matter of the suit and the petitioner having specifically pleaded in the plaint in O.S.No.1991 of 2007 that it was respondent Nos.1 to 4 who had attempted to dispossess her from the plaint schedule property, cannot now contend that respondent Nos.1 to 4 are not necessary and proper parties to the suit.

11. In the plaint filed by petitioner, the petitioner had claimed to have purchased the plaint schedule property from the father of respondent Nos.1 to 3 by name M.Danaiah and his brother M.Sham Rao under an agreement of sale dt.16-01-1995 and it was specifically alleged that on 24-04-2007 the respondent Nos.1 to 4 had attempted to dispossess the petitioner from the plaint schedule property with the help of police.

I have also seen the schedule of property which is subject matter of O.S.No.927 of 2007. The property which is subject matter of the said suit is different from the property which is subject matter of O.S.No.1991 of 2007. Therefore, the judgment in O.S.No.927 of 2007 has no application to the present case. Having regard to the specific plea of petitioner that it was the respondent Nos.1 to 4, who attempted to dispossess her from the plaint schedule property, it is not open to her to contend that they are not necessary and proper parties to the suit. Since the issue in the suit is with regard to possession and enjoyment of the subject property, I am of the opinion that the presence of respondent Nos.1 to 4 is necessary to enable the Court effectively and completely decide the said issue in the suit. It would also avoid multiplicity of proceedings. Therefore, I do not find any merit in the Revision and the same is accordingly dismissed. No

costs.

12. Since the suit is of the year 2007, the Court below shall expeditiously dispose of O.S.No.1991 of 2007 on its file preferably within a period of six (06) months from the date of receipt of copy of this order.

13. As a sequel, miscellaneous petitions pending, if any, shall stand disposed of.

JUSTICE M.S. RAMACHANDRA RAO

Date: 10-06-2015

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