

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH**

Civil Revision Petition No.4133 of 2012

Between:

Karasani Siva Reddy

... Petitioner(s)

and

Karasani Venkata Krishna Reddy
and ten others

... Respondent(s)

DATE OF JUDGMENT PRONOUNCED: ***04th August, 2015.***

SUBMITTED FOR APPROVAL:

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

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|---|---|--------|
| 1 | Whether Reporters of Local newspapers may
be allowed to see the Judgments? | Yes/No |
| 2 | Whether the copies of judgment may be
marked to Law Reports/Journals | Yes/No |
| 3 | Whether Their Ladyship/Lordship wish to see
the fair copy of the Judgment? | Yes/No |

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**THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA
RAO**

Civil Revision Petition No.4133 of 2012

ORDER:

This Civil Revision Petition is filed under Article 227 of the
Constitution of India challenging the order dt.11.06.2012 in

I.A.No.1104 of 2011 in O.S.No.242 of 2010 of V Additional District & Sessions Judge (FTC), Guntur.

2. The petitioner herein is the plaintiff in the above suit. He filed the suit against respondents 1 to 4 for a declaration that an Agreement of Sale-cum-GPA executed by the 3rd respondent in favour of the 4th respondent with regard to her 2/6th share under a document No.59/2008 dt.07.01.2008 registered before the Sub-Registrar, Koretipadu, Guntur is null and void and not binding on him and for other reliefs.

3. Pending the suit, he filed I.A.No.1104 of 2011 under Order I Rule 10 CPC to implead certain purchasers from the 4th respondent under registered sale deeds contending that the purchasers are also necessary parties to the suit and they ought to be impleaded.

4. Counter affidavit was filed by the 4th respondent opposing the impleadment of the purchasers from him. He contended that the petitioner is claiming through one Buchamma, who is the sister-in-law of the 3rd respondent and therefore the proposed parties are neither necessary nor proper parties to the suit.

5. By order dt.11.06.2012, the Court below dismissed I.A.No.1104 of 2011. It held that if any third party had purchased plaint schedule property, such a purchase would be

hit by Section 52 of the Transfer of Property Act, 1882 and they need not be impleaded as parties in the suit. It relied upon a judgment in ***Kuna Ramulu V. Kuna Annapurnamma and others***^[1].

6. Challenging the same, this Revision is filed.

7. 1st respondent is served but there is no representation on his behalf. Notice sent to 2nd respondent was returned with endorsement “not claimed”. Therefore, he is also deemed to be served.

8. Counsel for the petitioner contended that the persons sought to be impleaded include persons who have purchased properties prior to the filing of the suit and since they would be directly affected if the suit is decreed and the agreement of Sale-cum-GPA executed by the 3rd respondent in favour of the 4th respondent on 07.01.2008 is set aside. He contended that presence of the proposed parties is necessary in order to adjudicate upon and settle the questions involved in the suit and the Court below ought not to have rejected the said application on the ground that the 4th respondent sold his share of property in favour of proposed respondents and if any third party has purchased the suit property, it is hit by Section 52 of the Transfer of Property Act, 1882.

9. Counsel for the respondents 3 to 11 contended that the

order passed by the Court below is correct and the petitioner is not entitled to seek impleadment of respondents 5 to 11 in the suit.

10. I have noted the submission of both sides.

11. Order I rule 10(2) Civil Procedure Code, 1908 states thus:

“O. I R. 10(2) CPC – Court may strike out or add parties

– The Court may at any stage of the proceedings, either upon or without the application of either party, and on such terms as may appear to the Court to be just, order that the name of any party improperly joined, whether as plaintiff or defendant, be struck out, and that the name of any person who ought to have been joined, whether as plaintiff or defendant, or whose presence before the court may be necessary in order to enable the Court effectually and completely to adjudicate upon and settle all the questions involved in the suit, be added”

12. It thus permits the Court at any stage of the proceedings either upon or without application of either party to add any person as a party to the suit, whether as plaintiff or defendant, if it is of the view that he ought to have been joined as a party in the suit or if it is of the view that his presence is necessary before the Court to effectively and completely adjudicate upon and settle all the questions involved in the suit.

13. Admittedly, portions of the property which are subject matter of the suit were alienated by the 4th respondent in favour of the proposed parties. The petitioner in the suit had questioned an Agreement of Sale-cum-GPA executed by the 3rd respondent in favour of the 4th respondent with regard to her

2/6th share under document No.59 of 2008 dt.07.01.2008 as null and void. It is not disputed that pursuant to the said Agreement of Sale-cum-GPA only further alienation had been done by the 4th respondent. Therefore, if the suit is allowed and decreed, it might affect the transactions of purchase made by the proposed parties from the 4th respondent.

14. In *Kasturi v. Iyyamperumal*^[2], the Hon'ble Supreme Court held that necessary parties and proper parties can alone seek impleadment in a suit and that necessary parties are those persons in whose absence no decree can be passed by the Court or those persons against whom there is a right to some relief in respect of the controversy involved in the proceedings. It held that proper parties are those whose presence before the Court would be necessary in order to enable the Court effectually and completely to adjudicate upon and settle all the questions involved in the suit although no relief in the suit was claimed against such persons.

15. When considered in the light of the above decision, I am of the view that since the proposed parties are persons who would be affected if any relief is granted to the plaintiff in the suit, they are necessary parties to the suit and even if doctrine of *lis pendens* applies, if they are impleaded, they would be in a position to defend their rights in the properties purchased by them effectively. Therefore, I am of the opinion that the Court

below erred in dismissing the I.A.No.1104 of 2011 in O.S.No.242 of 2010.

16. The Civil Revision Petition is accordingly allowed. The order dt.11.06.2012 in I.A.No.1104 of 2011 in O.S.No.242 of 2010 of V Additional District & Sessions Judge (FTC), Guntur is set aside and the said I.A. is allowed. There shall be no order as to costs.

17. Consequently, Miscellaneous Petitions pending if any, shall stand closed.

M.S.RAMACHANDRA RAO, J

04th August, 2015.
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[\[1\]](#) 2003(3) ALD 146

[\[2\]](#) AIR 2005 SC 2813