

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

C.R.P.No.685 of 2015

ORDER :

This Revision is filed challenging the order dated 19-12-2014 in I.A.No.67 of 2014 in O.S.No.1 of 2011 on the file of Junior Civil Judge, Amadalavalasa.

The petitioner herein is the plaintiff in the suit. She filed suit against respondents 1 and 2 for Perpetual Injunction restraining respondents from interfering with her peaceful possession and enjoyment of the plaint schedule property.

Written statement was filed by the respondents 1 and 2 opposing the suit claim. Evidence in the suit has concluded.

Pending the suit, it appears that the petitioner had obtained *ad-interim* injunction in I.A.No.24 of 2011 restraining the respondents from interfering with her peaceful possession and enjoyment of the suit schedule property. The petitioner claims to have communicated the respondents 3 to 5 through legal notice dt.12-03-2015 about the existence of the *ad-interim* injunction and asked them not to issue any service connection and also not to issue any municipal assessment in respect of the suit schedule property in favour of respondents 1 and 2. According to the petitioner, said notice was served on respondents 3 to 5 and they had knowledge of interim injunction, but they intentionally violated the same by granting municipal assessment and also providing electrical service connection.

In these circumstances, petitioner filed I.A.No.67 of 2014 to add respondents 3 to 5 as defendants 3 to 5 in the suit and for filing petition for violating the injunction order against them by reopening the suit.

This application was opposed by respondents 1 and 2 who

contended that dispute in the suit is between private parties, and the proposed defendants are officials engaged in discharge of their official duties, and since there was no injunction order against them from giving municipal assessment or giving electrical connection, their presence is not necessary and there is no necessity to reopen the suit and add them as parties.

By an order dated 19-12-2014, the Court below dismissed the said application. It observed that the proposed parties can, if required, be summoned to give evidence, but there is no necessity to implead them as parties to the suit.

Challenging the same, this Revision is filed.

Counsel for the petitioner contended that since the proposed parties having knowledge of the interim injunction in her favour and acted in violation of the said injunction, the Court below should have allowed the said I.A. and impleaded them also as defendants in the suit, so as to enable the petitioner to file an application under Order 39 Rule 2-A C.P.C. against the proposed parties.

Although, notices in this Revision has been served on respondents 1 and 2, none appears on their behalf.

From the facts narrated above, it is clear that the petitioner intends to implead the respondents 3 to 5 as defendants in the suit alleging that they have abetted violation of *ad-interim* injunction in her favour in I.A.No.24 of 2011. It is not the case of the petitioner that respondents 3 to 5 have any interest in the suit schedule property or in the dispute which the petitioner has with respondents 2 and 3. Therefore, in my considered opinion, the petitioner cannot seek impleadment of respondents 3 to 5 as defendants 3 to 5 in the suit.

However, since the petitioner is contending that respondents 3 to 5 have abetted the violation of the temporary injunction granted in

her favour by the Court below by collusion with the respondents 1 and 2; in case the petitioner chooses to file an application under Order 39

Rule-2 A C.P.C. against the respondents 1 and 2, the petitioner can be permitted to implead the respondents 3 to 5 in the said I.A. to decide whether the respondents 3 to 5 can be said to be abetted the violation of said temporary injunction order or not.

Therefore, the Civil Revision Petition is partly allowed permitting the petitioner to implead the respondents 3 to 5 in the application which petitioner may seek to file under Order 39 Rule 2-A C.P.C. It is made clear that respondents 3 to 5 are not either necessary or proper parties in the suit and they need not be impleaded in the suit. No costs.

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

M.S. RAMACHANDRA RAO, J

01-09-2015

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