

* **HONOURABLE SRI JUSTICE T.SUNIL CHOWDARY**

+ CIVIL REVISION PETITION No.1065 of 2013

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% Date: 30.4.2015

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Taddi Chinnayya, S/o.Late Narasayya

And others

... Revision Petitioners/
Petitioners-proposed parties

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AND

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\$ Tekumalla Purushottam Rao, S/o.Late Rama Rao

And others

... Respondents/
Respondents-Plaintiff & Defendants

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! Counsel for revision petitioners : Sri K.Subrahmanyam

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^ Counsel for respondent No.1 : Sri M.S.R. Subrahmanyam

Counsel for respondent No.11: Sri Subba Rao Korrapati

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(respondent No.2 died; respondents 3 to 10 : none appeared)

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> HEAD NOTE:

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? CASES REFERRED:

- 1) (2012) 8 SCC 384
- 2) (2013) 5 SCC 397
- 3) (2010) 7 SCC 417 : 2010 (5) ALD 24 (SC)
- 4) 2012 (1) ALD 322

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THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CIVIL REVISION PETITION No.1065 of 2013

ORDER:

_____ This civil revision petition is filed by the petitioners challenging the order dated 28.12.2011 passed in I.A.No.319 of 2010 in O.S.No.29 of 2007 on the file of II Additional District Judge (Fast Track Court), Parvathipuram, wherein and whereby the petition filed by the petitioners under Order I Rule 10(2) of CPC was dismissed.

2. To avoid confusion, the parties will hereinafter be referred as they are arrayed before the trial court.

3. The factual matrix leading to filing of the civil revision petition is as follows: The first respondent is the younger son of Late Tekumalla Ramarao. The second respondent is wife and respondent Nos.3 and 4 are the legal representatives of Late Srinivasa Rao, who is the elder son of Late Rama Rao. Late Rama Rao was the inamdar of an extent of about Acs.29.00 in new survey Nos.8, 10, 13, 14, 15, 16, 18 and 24 of Dattivenkatapuram village. The petitioners and their predecessors were inducted, by Late Rama Rao, into the land admeasuring Acs.18.00 covered by survey Nos.5, 6, 8 and 18 as tenants about 70 years ago, and they continued as tenants up to 1986 and thereafter the petitioners became absolute owners over the share of first respondent and his sisters. The petitioners also became absolute owners in respect of land belongs to respondent Nos.2 to 4 by virtue of dismissal of ATC Nos.1, 2, 3 and 4 of 1984 against the petitioners and their predecessors. In the year 2004, rumours spread in the village that respondent Nos.3 and 4 being unable to have access to the lands in possession and enjoyment of the petitioners, colluding with respondent Nos.5 to 8, executed sale deeds in favour of respondent Nos.5 to 8, who attempted to trespass into the lands including the other lands in possession of the first respondent. The petitioners did not

allow them to enter into the village. Recently, the petitioners came to know through B.Surya Rao, Advocate that the first respondent filed civil suit against other respondents. It appears that respondent Nos.3 and 4 in collusion with first respondent filed O.S. No.29 of 2007. The petitioners are necessary parties to decide the questions of fact and law involved in the suit. The first respondent intentionally and willfully did not implead the petitioners as parties to the suit. Hence, the present petition is filed to implead the petitioners as defendants in O.S.No.29 of 2007 to adjudicate the questions completely and effectually.

4. The first respondent filed counter admitting dismissal of ATC Nos.1, 2, 3 and 4 of 1984 in view of the compromise effected therein. It is contended that after dismissal of ATCs, the petitioners did not come forward to obtain registered sale deed by paying balance sale consideration as per the terms of compromise recorded in ATCs, though he waited up to first week of June, 1988. This respondent got issued legal notice on 06.6.1988 calling upon the petitioners to pay the balance sale consideration on or before 10.7.1988 and obtain sale deed failing which the sale agreement dated 03.1.1986 embodied as compromise in the ATCs shall be deemed to be cancelled. The petitioners having received the legal notice under the acknowledgements kept quiet. This respondent took vacant possession of the land on 11.7.1988 and since then he has been in possession and enjoyment of the same as well as major extent of land in survey Nos.5, 6, 8 and 18. The petitioners got issued legal notice on 12.7.1992 with all false allegations as if they were in possession and enjoyment of the land. This respondent got issued reply notice to the petitioners. This respondent has given part of the land to his daughters and their names were also mutated in the revenue records. By suppressing all these facts, the petitioners filed the present petition at the behest of respondent Nos.5 to 8 and 11. The petitioners have

no locus standi to file this petition claiming independent title in respect of schedule property when this respondent filed present suit for declaration of his title and for consequential relief against third party. Hence, the petition may be dismissed.

5. The respondent No.11 filed counter, *inter alia*, contending that he is absolute owner of dry land i.e., item Nos.1, 2 and 3 of schedule mentioned property in O.S.No.392 of 2007 filed by him against the first respondent and five others for perpetual injunction. The first respondent filed present suit against this respondent and others with false allegations. In view of pendency of O.S.No.29 of 2007 before the trial court, this respondent filed T.O.P. No.554 of 2009 and the same was allowed transferring O.S.No.392 of 2007 filed by him from Senior Civil Judge Court to the trial court for conducting joint trial along with O.S.No.29 of 2007. In fact, respondent Nos.5 and 6 have executed registered sale agreement and G.P.A. dated 23.8.2007 in favour of this respondent in respect of the lands situated in survey No.6/1 to an extent of Acs.12.61 and out of which subsequently respondent Nos.5 and 6 executed registered sale deed dated 23.8.2007 in favour of this respondent in respect of item No.2 of schedule property to an extent of Acs.6.70 cents for a valuable consideration of Rs.3,35,000/-. This respondent also purchased item No.3 of schedule property from respondent Nos.5 and 6 under registered sale deed dated 23.8.2007. This respondent further submitted that his vendors have purchased item Nos.2 and 3 under registered sale deed dated 01.11.2004. The revenue authorities also issued Pattadar Pass Books in favour of his vendors. Respondent Nos.7 and 8, who are wives of respondent Nos.5 and 6 respectively, executed sale agreement and G.P.A. in favour of this respondent in respect of the land admeasuring Acs.13.80 cents in survey No.5T, and out of the said land, respondent Nos.7 and 8 executed registered sale deed dated 28.8.2007 in favour of this respondent in respect of land admeasuring Acs.8.80 cents i.e., item

No.1 of schedule property. Thus either the plaintiff in O.S.No.29 of 2007 or the defendants in O.S.No.392 of 2007 are nothing to do with the above mentioned item Nos.1, 2 and 3 of schedule property in O.S.No.392 of 2007. The petitioners have not placed any document before the revenue authority and the said fact was also recorded by the District Collector, Vizianagaram in his proceedings while directing the Mandal Revenue Officer, Dattirajeru (MRO) to issue Pattadar Pass Books in favour of this respondent's vendor. On 19.11.2007, the MRO issued Pattadar Pass Books in favour of vendors of this respondent. Therefore, the petitioners are neither necessary nor proper parties to the suit. Hence the petition may be dismissed.

6. On behalf of the petitioners, Exs.P1 to P3 were marked. On behalf of the first respondent Exs.R1 to R3 were marked. On behalf of respondent No.11, Ex.R4 was marked.

7. Basing on the material available on record, the trial court dismissed the petition. Feeling aggrieved by the order of the trial court, the petitioners preferred the present revision petition.

8. Heard Sri K.Subrahmanyam, learned counsel for the petitioners, Sri M.S.R. Subrahmanyam, learned counsel for respondent No.1, and Sri Subba Rao Korrapati, learned counsel for respondent No.11.

9. The contention of learned counsel for the petitioners is four fold: (1) the trial court failed to consider that the petitioners are necessary and proper parties to the suit, in whose absence, it may not be possible for the court to adjudicate the matter completely and effectually;

(2) the trial court has not properly appreciated the scope of Order I Rule 10 CPC and dismissed the petition, which eventually leads to multiplicity of proceedings;

(3) the trial court failed to appreciate the persons, who have interest or semblance of interest in the subject matter of the suit, are entitled to come on record as parties to the suit in order to put an end to the litigation once for all; and

(4) the trial court has not considered Exs.P1 to P3 in right perspective and

dismissed the petition on untenable grounds.

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Per contra, learned counsel for the first respondent submitted that the trial court, after considering the material available on record, rightly arrived at a conclusion that the petitioners are not necessary and proper parties to the suit. He further submitted that the right of the petitioners, if any, in the subject matter of the suit is extinguished long back in view of their inaction.

Learned counsel for respondent No.11 submitted that if the petitioners are allowed to come on record as defendants, the very nature and scope of the suit would automatically be changed, which is not permissible under law. He further submitted that the civil court has no jurisdiction whatsoever to decide the alleged right or interest of the petitioners, if any, in the subject matter of the suit. He also submitted that the petitioners have filed the petition, at the behest of somebody, with an ulterior motive to drag on the proceedings.

10. Basing on the rival contentions, the points that arise for determination in this revision petition are:

(1) Whether the petitioners are necessary or proper parties to the suit or not?

(2) Whether there is any illegality or irregularity in the order of the trial court which warrants interference of this court?

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Point Nos.1 and 2:

11. In order to avoid recapitulation of the facts, it is apposite to refer the admitted facts that can be culled out from the pleadings. Late Tekumalla Rama Rao had two sons by name Srinivasa Rao (husband of second respondent and father of respondent Nos.3 and 4) and Purushottam Rao (first respondent). Late Rama Rao was inamdar of an extent of about Acs.29.00 of new survey Nos.8, 10, 13, 14, 15, 16, 18 and 24 of Dattivenkatapuram village, Dattirajeru Mandal, Vizianagaram District. The petitioners' predecessors were inducted as tenants about 70 years ago, by Late Rama Rao, in respect of

Acs.18.00 of land in survey Nos.5, 6, 8 and 18. After death of Rama Rao, his sons succeeded to the property. The respondent Nos.1 to 4 have filed ATC Nos.1, 2, 3 and 4 of 1984 for eviction of the petitioners and their predecessors from an extent of Acs.18.00 of land in survey Nos.5, 6, 8 and 18. In the ATC filed by first respondent, he entered into compromise with the petitioners agreeing to sell his share of land. The ATCs filed by respondent Nos.2 to 4 were dismissed for default.

12. While so, the first respondent filed O.S.No.29 of 2007 to declare him as owner of the suit schedule property and consequential perpetual injunction against respondent Nos.2 to 11. The respondent No.11 also filed O.S.No.392 of 2007 on the file of Senior Civil Judge's Court, Vizianagaram, against first respondent and five others for permanent injunction in respect of item Nos.1 to 3 of schedule properties in O.S.No.392 of 2007, which was transferred to the trial court.

13. The petitioners have filed petition under Order I Rule 10(2) CPC to permit them to come on record as defendants in O.S.No.29 of 2007, *inter alia*, contending that their presence is necessary to adjudicate the questions effectually in the suit. The stance of petitioners is that themselves and their predecessors were continued as tenants up to 1986 and thereafter they have become absolute owners of the property.

14. Order I Rule 10(2) CPC is an exception to the general rule that the plaintiff in a suit, being *dominus litis*, may choose the persons against whom he wishes to litigate and he cannot be compelled to sue a person against whom he does not seek any relief. Suffice it to say, the discretionary power conferred on a civil court by Order I Rule 10(2) CPC has to be exercised judiciously basing on sound principles of law.

15. To substantiate the argument, learned counsel for the petitioners

has drawn my attention to: --

Vidur Impex & Traders (P) Ltd., v Tosh Apartments (P) Ltd. ^[1]

Para 41.1 to 41.6 reads as follows:

41.1. The court can, at any stage of the proceedings, either on an application made by the parties or otherwise, direct impleadment of any person as party, who ought to have been joined as plaintiff or defendant or whose presence before the court is necessary for effective and complete adjudication of the issues involved in the suit.

41.2. A necessary party is the person who ought to be joined as party to the suit and in whose absence an effective decree cannot be passed by the court.

41.3. A proper party is a person whose presence would enable the court to completely, effectively and properly adjudicate upon all matters and issues, though he may not be a person in favour of or against whom a decree is to be made.

41.4. If a person is not found to be a proper or necessary party, the court does not have the jurisdiction to order his impleadment against the wishes of the plaintiff.

41.5. In a suit for specific performance, the court can order impleadment of a purchaser whose conduct is above board, and who files application for being joined as party within reasonable time of his acquiring knowledge about the pending litigation.

41.6. However, if the applicant is guilty of contumacious conduct or is beneficiary of a clandestine transaction or a transaction made by the owner of the suit property in violation of the restraint order passed by the court or the application is unduly delayed then the court will be fully justified in declining the prayer for impleadment.

Thomson Press (India) Ltd. v. Nanak Builders & Investors (P)

Ltd ^[2]. Wherein the Hon'ble apex court held at para 32 as follows:

32. Considering the aforesaid provisions, this Court in *Ramesh Hirachand Kundanmal v. Municipal Corpn. of Greater Bombay*, (1992) 2 SCC 524, held as under: (SCC p. 531, para 14)

“14. It cannot be said that the main object of the rule is to prevent multiplicity of actions though it may incidentally have that effect. But that appears to be a desirable consequence of the rule rather than its main objective. The person to be joined must be one whose presence is necessary as a party. What makes a person a necessary party is not merely that he has relevant evidence to give on some of the questions involved; that would only make him a necessary witness. It is not

merely that he has an interest in the correct solution of some question involved and has thought of relevant arguments to advance. The only reason which makes it necessary to make a person a party to an action is so that he should be bound by the result of the action and the question to be settled, therefore, must be a question in the action which cannot be effectually and completely settled unless he is a party. The line has been drawn on a wider construction of the rule between the direct interest or the legal interest and commercial interest. It is, therefore, necessary that the person must be directly or legally interested in the action in the answer i.e. he can say that the litigation may lead to a result which will affect him legally that is by curtailing his legal rights. It is difficult to say that the rule contemplates joining as a defendant a person whose only object is to prosecute his own cause of action. Similar provision was considered in *Amon v. Raphael Tuck & Sons Ltd*, (1956) 1 QB 357 : (1956) 1 All ER 273, wherein after quoting the observations of Wynn-Parry, J. in *Dollfus Mieg et Compagnie SA v. Bank of England*, (1950) 2 All ER 605, that the true test lies not so much in an analysis of what are the constituents of the applicants' rights, but rather in what would be the result on the subject-matter of the action if those rights could be established, Devlin, J. has stated: (*Amon case*, QB p. 371)

‘... the test is: “May the order for which the plaintiff is asking directly affect the intervener in the enjoyment of his legal rights?”’

Learned counsel for the first respondent has drawn my attention to:--

Mumbai International Airport (P) Ltd. v. Regency Convention

Centre & Hotels (P) Ltd. ^[3]. Paras 24.1 to 24.4 and 25 read as under:

24.1 If a plaintiff makes an application for impleading a person as a defendant on the ground that he is a necessary party, the court may implead him having regard to the provisions of Rules 9 and 10(2) of Order 1. If the claim against such a person is barred by limitation, it may refuse to add him as a party and even dismiss the suit for non-joinder of a necessary party.

24.2 If the owner of a tenanted property enters into an agreement for sale of such property without physical possession, in a suit for specific performance by the purchaser, the tenant would not be a necessary party. But if the suit for specific performance is filed with an additional prayer for delivery of physical possession from the tenant in possession, then the tenant will be a necessary party insofar as the prayer for actual possession.

24.3 If a person makes an application for being

impleaded contending that he is a necessary party, and if the court finds that he is a necessary party, it can implead him. If the plaintiff opposes such impleadment, then instead of impleading such a party, who is found to be a necessary party, the court may proceed to dismiss the suit by holding that the applicant was a necessary party and in his absence the plaintiff was not entitled to any relief in the suit.

24.4 If an application is made by a plaintiff for impleading someone as a proper party, subject to limitation, bona fides, etc., the court will normally implead him, if he is found to be a proper party. On the other hand, if a non-party makes an application seeking impleadment as a proper party and the court finds him to be a proper party, the court may direct his addition as a defendant; but if the court finds that his addition will alter the nature of the suit or introduce a new cause of action, it may dismiss the application even if he is found to be a proper party, if it does not want to widen the scope of the specific performance suit; or the court may direct such applicant to be impleaded as a proper party, either unconditionally or subject to terms. For example, if *D* claiming to be a co-owner of a suit property, enters into an agreement for sale of his share in favour of *P* representing that he is the co-owner with half-share, and *P* files a suit for specific performance of the said agreement of sale in respect of the undivided half-share, the court may permit the other co-owner who contends that *D* has only one-fourth share, to be impleaded as an additional defendant as a proper party, and may examine the issue whether the plaintiff is entitled to specific performance of the agreement in respect of half a share or only one-fourth share; alternatively the court may refuse to implead the other co-owner and leave open the question in regard to the extent of share of the defendant vendor to be decided in an independent proceeding by the other co-owner, or the plaintiff; alternatively the court may implead him but subject to the term that the dispute, if any, between the impleaded co-owner and the original defendant in regard to the extent of the share will not be the subject-matter of the suit for specific performance, and that it will decide in the suit only the issues relating to specific performance, that is, whether the defendant executed the agreement/contract and whether such contract should be specifically enforced.

25. In other words, the court has the discretion to either to allow or reject an application of a person claiming to be a proper party, depending upon the facts and circumstances and no person has a right to insist that he should be impleaded as a party, merely because he is a proper party.

Mitta Sanjeeva Reddy v Shaik Fakruddin^[4]. Wherein it was held

that “the Supreme Court considered the scope of sub-rule (2) of Rule 10 of Order I CPC and held that strangers to the contract making a claim independent and adverse to the title of the executant of the agreement are neither necessary nor proper parties and therefore, they are not entitled to join as defendants in a suit for specific performance of contract of sale”.

The above referred decisions deal with impleadment of parties in a suit for specific performance.

16. Let me consider the facts of the case on hand, in the light of the principle enunciated in the cases cited supra. The /is revolves around an extent of Acs.29.00, which is originally inam land. The contention of the first respondent is that he is the absolute owner of the suit schedule property covered by O.S.No.392 of 2007. The contention of respondent No.11 is that his vendors i.e., respondent Nos.5 and 6 had purchased item Nos.2 and 3 of schedule property in O.S.No.392 of 2007 under registered sale deed dated 01.11.2004 and obtained Pattadar Pass Books. He contended that he purchased item Nos.2 and 3 of schedule properties from respondent Nos.5 and 6 under two registered sale deeds dated 23.8.2007. He also claimed that he purchased item No.1 of schedule property from respondent Nos.7 and 8 under a registered sale deed dated 28.8.2007.

17. The petitioners are claiming right to an extent of Acs.18.00 in survey Nos.5, 6, 8 and 18 as tenants up to 1986 and absolute owners thereafter. The contention of the petitioners is that the first respondent, in collusion with respondent Nos.2 to 4, filed O.S.No.29 of 2007. The contention of the first respondent is that the present petition is the brain child of respondent Nos.5 to 8 and 11. To put it in a different way, the petitioners are only name-lenders to the implead petition as per the stand of first respondent.

18. A necessary party is one whose presence is indispensable to the constitution of the suit, against whom the relief is sought and

without whom no effective order can be passed. A proper party is one in whose absence an effective order can be passed, but whose presence is necessary for a complete and final decision on the question involved in the proceeding. A duty is cast on the court to curb vexatious and frivolous petitions, which were filed with an ulterior motive of protracting the litigation by certain persons under the guise of bona fide parties to the proceedings. In such circumstances, the court has to take more care in order to ascertain the hidden agenda of the proposed party by lifting the veil.

19. If the petitioners' case is accepted in toto, originally they got right over the property as tenants of inam land. The rights of tenants of an inamdar are governed the provisions of the Andhra Pradesh (Andhra Area) Inams (Abolition and Conversion into Ryotwari) Act, 1956 (the Act) and Rules, 1957. As per Section 6 of the Act, the tenant of inamdar is entitled to 1/3rd share in the occupation of the tenant. Various provisions of the Act enjoin Tahsildar to determine the rights of the parties in respect of the inam land. In order to enforce the alleged right or interest of the petitioners in respect of part of suit schedule property, they have to approach the concerned Tahsildar, but not the civil court, for redressal of their grievance.

20. It is not in dispute that in the ATC filed by the first respondent against the petitioners, the parties have entered into compromise. In terms of compromise, the first respondent got issued legal notice dated 06.6.1988 calling upon the petitioners to pay balance sale consideration on or before 10.7.1988 and obtain sale deed, failing which the agreement of sale dated 03.1.1986 shall be deemed to be cancelled. The petitioners having received the notice kept quiet. For one reason or the other, the petitioners did not issue any reply to the notice dated 06.6.1988 got issued by the first respondent. One of the objects of Order I Rule 10(2) CPC is to avoid multiplicity of proceedings. That does not mean, a person, who is not diligent of his

alleged right and slept over for years together, is entitled to come on record by taking shelter under Order I Rule 10(2) CPC as a matter of right. The petitioners have not raised even their little finger till 2010, when they filed the present petition in the suit filed by the first respondent way back in the year 2007. An agreement of sale will not confer any right or interest in the subject matter of the property in favour of the petitioners. As per Section 54 of the Transfer of Property Act, 1882, a contract for sale of immovable property does not, of itself, create any interest or charge on such property.

21. The first respondent filed the suit for declaration to declare him as absolute owner of the schedule properties in O.S.No.29 of 2007 whereas the respondent No.11 is claiming right in respect of part of schedule properties by virtue of registered sale deeds dated 23.8.2007 and 28.8.2007. Now the petitioners filed the petition to permit them to come on record as defendants by virtue of agreement of sale dated 03.1.1986. When the first respondent himself approached the court to declare him as owner of the property, the question of enforcement of agreement of sale in this suit (O.S.No.29 of 2007) would undoubtedly change the nature of the suit, which is not permissible under law. The facts of the case in **Mitta Sanjeeva Reddy's** case are similar to the facts of the case on hand. As per the principle enunciated therein, *"strangers to the contract making a claim independent and adverse to the title of the executant of the agreement are neither necessary nor proper parties"*. If the implead petition is allowed, certainly the court has to adjudicate the alleged cause of action of the petitioners, which also falls outside the scope of the present suit. It is not the case of the first respondent that the petitioners are interfering with his possession in respect of the suit schedule property. Even assuming, but not admitting, that the first respondent is declared as absolute owner of the property that would not affect the rights, if any, accrued in favour of the petitioners. As per Section 35 of the Specific Relief Act, a declaration

made under Section 34 of the Specific Relief Act is binding only on the parties to the suit and the persons claiming through them. Even if the court declares that the first respondent is absolute owner of the property, the same is not binding on the petitioners. Viewed from this angle, the petitioners are not necessary and proper parties to the suit.

22. It is not in dispute that the vendors of respondent No.11 purchased items Nos.2 and 3 of the property through a registered sale deed dated 01.11.2004. Respondent No.11 has purchased item Nos.1, 2 and 3 of the schedule property in O.S.No.392 of 2007 under registered sale deeds dated 28.8.2007, 23.8.2003 and 23.8.2007 respectively. In view of relief sought in O.S.No.29 of 2007, the dispute is between the first respondent and respondent No.11. A perusal of the record reveals that the respondent No.11's vendors purchased the property from respondent Nos.2 to 4. In order to enforce the rights of the petitioners, if any, in the subject matter of the suit, they have to file separate suit, preferably a suit for specific performance of agreement of sale dated 03.1.1986.

23. The respondent No.11 has taken a specific plea in the counter that on 19.11.2007 the Mandal Revenue Officer, Dattirajuru issued Pattadar Pass Books in favour of his vendors. If the petitioners have any grievance, they have to approach the concerned revenue authorities for cancellation of Pattadar Pass Books. The civil court is not the proper forum to cancel the Pattadar Pass Books issued by the revenue authorities.

24. The petitioners have very cleverly taken a plea in their petition that rumours were spread in the village in the year 2004 that the respondent Nos.3 and 4 in collusion with respondent Nos.5 to 8 executed sale deed in favour of respondent Nos.5 to 8. It is the duty of the petitioners to verify truthfulness or otherwise of the rumours aired in the village. Taking of such a plea by the petitioners creates a doubt

that the petitioners were very much aware of the sale deeds executed by the respondent Nos.3 and 4 in favour of respondent Nos.5 to 8. For the reasons best known, the petitioners kept quiet up to 2010 i.e., till filing of this petition. At another stage, the petitioners have taken a plea that they came to know through B.Surya Rao, Advocate that the first respondent filed O.S.No.29 of 2007 against the other respondents. The possibility of taking this type of pleas by the petitioners in order to cover up their laches cannot be ruled out completely. If really the petitioners have any right or interest in the subject matter of the suit in O.S.No.29 of 2007, they might have taken appropriate steps much prior to 2010. One of the tests to be applied, while considering the petition under Order I Rule 10 CPC, is whether the court is not in a position to adjudicate the subject matter of the suit completely and effectually in the absence of the proposed parties. In the case on hand, even in the absence of the petitioners, the trial court can adjudicate the issues involved in the suit effectively. As observed above, if the petitioners are allowed to come on record, the cause of action alleged to have accrued in favour of the petitioners falls outside the scope of the suit. The presence of the petitioners should be an impediment for adjudication of the suit completely and effectually.

25. Viewed from any angle, the petitioners are not necessary or proper parties to O.S.No.29 of 2007. The possibility of filing present petition to support either of the parties to the suit cannot be ruled out completely. The courts should not allow anybody to misuse the interlocutory proceedings in order to protract the main cases as long as possible.

26. Having regard to the facts and circumstances of the case and also principle enunciated in the cases cited supra, this court is of the considered view that the petitioners are not at all necessary or proper parties to O.S.No.29 of 2007. The trial court appreciated the material available on record in right perspective and dismissed the petition.

While exercising the jurisdiction under Section 115 CPC, this court cannot lightly interfere with the order passed by the trial court unless there is illegality or irregularity apparent on the face of the record. Viewed from factual or legal aspects, there is no illegality or irregularity in the order passed by the trial court. The points are, accordingly, answered against the petitioners.

27. In the result, the revision petition is dismissed at the admission stage. Miscellaneous petitions if any pending in the revision petition shall stand closed.

T.SUNIL CHOWDARY, J

April 30, 2015.

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NOTE:

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(By order)

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[\[1\]](#) (2012) 8 SCC 384

[\[2\]](#) (2013) 5 SCC 397

[\[3\]](#) (2010) 7 SCC 417 : 2010 (5) ALD 24 (SC)

[\[4\]](#) 2012 (1) ALD 322