

HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

CIVIL REVISION PETITION No.2968 of 2010

ORDER:

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This Revision is filed challenging the order dated 08.09.2009 in I.A.No.732 of 2006 in O.S.No.1006 of 2004 on the file of the IV Additional Senior Civil Judge (FTC) at Vijayawada.

2. The petitioner herein is the defendant in the above suit.

3. The respondent/plaintiff filed the suit against the petitioner showing the petitioner as proprietor of M/s.Anjani Seeds and Agencies, M/s.Sravani Seeds and M/s.Green Gold Seeds and alleging that the petitioner had purchased different products from the respondent.

4. The stand of the petitioner was that he had nothing to do with M/s.Anjani Seeds and Agencies and Sravani Seeds and that one K.Madan Gopal, who is his foster father, is concerned with those businesses and he is concerned only with M/s.Green Gold Seeds. He claimed that he never purchased any seeds on behalf of M/s.Anjani Seeds and Agencies or Ms/.Sravani Seeds.

5. The issues were framed, trial commenced and both the petitioner and the respondent led evidence.

6. I.A.No.630 of 2006 was filed by the respondent/plaintiff to implead K.Madan Gopal on the basis of the pleadings taken by

the petitioner and also the evidence led by him and the said application appears to have been allowed on 08-09-2009.

7. The petitioner then filed I.A.No.732 of 2006 to strike out his name from the array of parties, since according to him, he is no way concerned with business of M/s.Anjani Seeds and Agencies and Sravani Seeds.

8. By order dated 08-09-2010, the court below dismissed the said application on the ground that the liability of the petitioner to the suit claim can only be decided at the final trial and at that juncture it was not possible to do it.

9. Challenging the same, this Revision is filed.

10. Counsel for the petitioner contends that the petitioner had nothing to do with M/s.Anjani Seeds and Agencies and M/s.Sravani Seeds, that the evidence adduced by PW.1 as well as the petitioner in the suit supports this inference and so, the court below ought to have allowed I.A.No.732 of 2006 and struck out his name from the array of parties.

11. Counsel for the respondent on the other hand contends that the order passed by the court below is correct and does not warrant any interference by this Court in exercise of its jurisdiction under Article 227 of the Constitution of India more particularly when the petitioner, as a defendant, had engaged a lawyer, filed a written statement and also led evidence in the matter.

12. Admittedly, the petitioner was shown as representing M/s.Anjani Seeds and Agencies, M/s.Sravani Seeds as well as M/s.Green Gold Seeds in the plaint filed by the respondent. Assuming for the sake of argument that the petitioner has nothing to do with M/s.Anjani Seeds and Agencies and M/s.Sravani Seeds, even according to the petitioner he is concerned with M/s.Green Gold Seeds. Also the petitioner had anyway engaged a counsel, filed a written statement and also adduced evidence. Notwithstanding the fact that K.Madan Gopal, petitioner's foster father has now been impleaded, at this juncture it is not possible to decide whether petitioner is connected or not with suit claim and to strike out the name of the petitioner from the array of parties.

13. The question whether the petitioner is liable to pay any sum to the respondent is a matter to be decided after considering the material evidence adduced by both sides and since the trial for the most part has been completed, at this juncture, the petitioner cannot be deleted from the array of parties.

14. Therefore, I am of the opinion that the court below had rightly dismissed I.A.No.732 of 2006. Consequently, the Civil Revision Petition is dismissed.

However, it is made clear that the petitioner shall be given an opportunity to lead evidence incase the evidence, if any, led by Sri K.Madan Gopal is adverse to the interest of the petitioner. No costs.

M.S.RAMACHANDRA RAO, J

Date:11-06-2015

Prv