

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

CIVIL REVISION PETITION No.3981 of 2011

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ORDER:
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This Civil Revision Petition is filed challenging the order dt.29-07-2011 in I.A.No.374 of 2010 in O.S.No.710 of 2008 of the I Additional Senior Civil Judge, Nellore.

2. Heard Sri P.Sridhar Reddy, learned counsel for petitioners and Sri S.Lakshminarayana Reddy, learned counsel for 1st respondent.

3. The petitioners herein are defendants in the above suit.

4. The 1st respondent/plaintiff filed the suit for declaration of his title to the plaint schedule property and for recovery of possession thereof against the petitioners herein. The basis of the suit is a registered settlement deed dt.30-05-2008 said to have been executed by 1st respondent's sister by name Giddanti Sampooramma, who is 2nd respondent in this Revision.

5. Written statement was filed by defendants opposing

the suit claim and contending that the said document itself was concocted and fabricated and it was a collusive transaction, and contending that the 2nd respondent had denied the execution of such settlement deed by her. They further claim that 2nd respondent had sold the plaint schedule property to them under an agreement of sale dt.02-09-2002; that they had paid part of the sale consideration; and they have been inducted into possession by her.

6. The petitioners filed I.A.No.374 of 2010 to implead the 2nd respondent in the suit along with respondent Nos.3, 4 and 5 contending that their presence is necessary for adjudication of title to the property and the proposed parties were interested in the suit claim. It was further pleaded that respondent Nos.3 to 5 had purchased the property from 2nd respondent and from them the petitioners were claiming the property and therefore the respondent Nos.3 to 5 are also necessary parties and ought to have been impleaded.

7. This application was opposed by 1st respondent/plaintiff contending that he is *dominis litis* and he cannot be compelled to litigate with third parties. He contended that the proposed parties are neither

necessary nor proper parties to the suit and that they have no right, title or interest in the subject property and they are trespassers.

8. By order dt.29-07-2011, the Court below dismissed the said application. It held that it is for the plaintiff/1st respondent to adduce evidence to prove his title and possession and if he fails in that effort, he would face the consequences and the proposed parties, who had already sold the property to petitioners, need not be impleaded.

9. Challenging the same, this Revision is filed.

10. The learned counsel for petitioners contends that the Court below erred in dismissing I.A.No.374 of 2010; that respondent Nos.3 to 5 are necessary parties to the suit without whose presence the issues raised in the suit cannot be properly adjudicated; and therefore the impugned order be set aside.

11. The learned counsel for 1st respondent, on the other hand, contended that the order of the Court below is correct and that the proposed parties are not necessary and proper parties to the suit.

12. From the pleadings of the parties, it is clear that while

1st respondent/plaintiff is claiming title to the property under registered settlement deed dt.30-05-2008 allegedly executed in his favour by 2nd respondent, the petitioners herein dispute the same and contended that she executed an agreement of sale in favour of respondent Nos.3 to 5 and from respondent Nos.3 to 5, the petitioners purchased it under hand letters.

13. In my considered opinion it is not necessary to impale respondent Nos.3 to 5 in the suit since they had already allegedly alienated the property to petitioners and if required, it is open to petitioners to examine these persons as their witnesses in support of their pleas. The 1st respondent being a *dominus litis*, he cannot be compelled to litigate against third parties against his will.

14. Therefore, I do not find any error in the order passed by the Court below. Consequently, this Civil Revision Petition is dismissed. No costs.

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

JUSTICE M.S. RAMACHANDRA RAO

Date: 11-06-2015

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