

HON'BLE SRI JUSTICE S. RAVI KUMAR
CIVIL REVISION PETITION No.1886 of 2015

ORDER:

This revision is preferred against order dated 02.12.2014 in I.A.No.2902 of 2014 in O.S.No.74 of 2009 on the file of Principal District Judge, Medak District at Sanga Reddy.

2. Revision petitioners herein are plaintiffs and respondents 1 to 3 are the proposed plaintiffs, who filed I.A. No.2902 of 2014 to implead them as legal representatives of the deceased-16th plaintiff invoking the provisions of order XXII Rule 3 read with Section 151 CPC. The trial Court relying on a Fatwa, produced by respondents No.1 to 3 herein i.e., proposed parties, to be impleaded as plaintiffs, allowed the application directing revision petitioners herein to implead respondents No. 1 to 3 herein as plaintiffs No.17 to 19 in the main suit. Aggrieved by the said order, plaintiffs preferred present revision.

3. Heard both sides.

4. Advocate for revision petitioners submitted that trial Court failed to consider that plaintiff No.16 died without any issues and there are none to succeed her interest and the present proposed parties without any succession certificates, obtained from a Court of law or showing that they are legal heirs of the deceased-16th plaintiff, were permitted to come on record only on the basis of Fatwa issued by Darul Ifta Jamia Nizamia, Shibli Gunj, Hyderabad. He further submitted that as per the decision of Supreme Court in Writ Petition (Civil) No.386 of 2005 dated 07.07.2014, Fatwa issued by any body or being not emanating from any judicial system recognized by law, is not binding on any

person including the person who had asked for it, and adjudication on Fatwa does not have a force of law and it cannot be enforced by any person by using it. He submitted that trial Court only based on Fatwa ordered impleading the proposed parties i.e., respondents No.1 to 3 herein as plaintiffs No.17 to 19 to the suit filed by the plaintiffs for declaration of title in respect of suit schedule property. He submitted that the trial Court committed error in allowing the application and the order of the trial Court dated 2.12.2014 in I.A.No. 2902 of 2014 is illegal and liable to be set aside.

5. On the other hand advocate for proposed parties i.e., respondents No.1 to 3 herein submitted that the proposed parties are the legal heirs of deceased-16th plaintiff and they have every right to come on record as per the provisions of Muslim Law, particularly Section 65 of Mohammedan Law and tables given in 54-A and 48-A. She submitted that valuable rights of the proposed parties in the property are involved and no prejudice will be caused to the plaintiffs, if they are impleaded as parties and ultimately the Court has to decide whether the proposed parties have any right in the property and then only any relief would be granted to them, and by merely coming on record, rights of plaintiffs are no way defeated. She further submitted that at least proposed parties may be allowed to come on record as defendants to protect their interest in the suit schedule property.

6. In reply to her submission, advocate for petitioners submitted that the affidavit is very vague and no details are given with regard to relationship and provision of law, therefore such a request cannot be accepted.

7. I have perused the material papers including impugned

order and also perused the affidavit filed by the proposed parties in support of petition under Order XXII Rule 10 CPC. As rightly pointed out by advocate for petitioners no details are given like relationship and provision of law under which they are entitled to come on record. It seems that they only relied on Fatwa and the trial Court considered the same and allowed the petition of the proposed parties. Both sides agree that if proper details are given in the affidavit matter can be decided by examining the necessity of proposed parties depending on their legal right.

8. On a scrutiny of the material, I am of the view that to protect interest of both parties, the impugned order dated 02.12.2014 in I.A.No.2902 of 2014 in O.S.No.74 of 2009 on the file of Principal District Judge, Medak District at Sanga Reddy is liable to be set aside by giving liberty to the proposed parties i.e., respondents No.1 to 3 herein to file an appropriate fresh application giving all necessary information on which the trial Court shall consider the same afresh by giving opportunity to both sides without being influenced by any of the observations made herein.

9. Accordingly, the Civil Revision Petition is ordered. No costs. Miscellaneous Petitions, if any pending, in this petition, shall stand closed.

S. RAVI KUMAR, J

Date: 04-09-2015.

gvl