

THE HON'BLE SRI JUSTICE K.C. BHANU

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CIVIL REVISION PETITION No.2731 OF 2014

ORDER:

This Civil Revision Petition, under Article 227 of the Constitution of India, is directed against the order, dated 31.07.2014, in Interlocutory Application No.515 of 2013 in Original Suit No.178 of 2012 passed by the Additional Senior Civil Judge, Narasaraopet, whereunder and whereby, the application filed under Order I Rule 10 of the Code of Civil Procedure, 1908 (for short, 'CPC') to add the third party petitioner therein as defendant No.3 in the suit was allowed.

2. The facts are not in dispute. The suit was filed for declaration directing the defendants to execute a regular registered sale deed before the Sub-Registrar's Office. Evidence was let-in by both the parties to the suit. When the suit was coming on for arguments, the 1st respondent herein, who is a third party to the suit, filed an application under Order I Rule 10 CPC to implead him as a party to the suit and the same was allowed.

3. Learned counsel for the petitioner herein/plaintiff contended that allowing such an implead application is not in accordance with law and without assigning reasons at the fag end of the trial, the Court below allowed the petition, therefore, he prays to set aside the impugned order.

4. On the other hand, learned counsel for the respondent No.1/third party contended that since the father of the plaintiff executed an unregistered agreement of sale in favour of respondent No.1, he seems to have semblance of right over the property and that is the reason why the trial Court allowed the

petition, therefore, he prays to dismiss the petition.

5. There cannot be any dispute that Order I Rule 10(2) CPC provides for adding of the defendant at any stage. Two conditions are required to be fulfilled for impleading of a party viz., i) the proposed party has some semblance of right over the property, and ii) without impleading a party, complete and effective adjudication cannot be made. If the above two requirements are satisfied, a party can be impleaded.

6. The petitioner claims to have purchased the property under an unregistered agreement of sale, dated 17.06.1995, but he has not filed the original unregistered agreement of sale so as to look into the same for collateral purpose. Xerox copy of the unregistered agreement of sale cannot be looked into for any purpose. Even then, there is no salable interest because the unregistered agreement of sale dated 17.06.1995 was not transformed into a regular sale deed.

7. To claim benefit under Section 53-A of the Transfer of Property Act, 1882, the following requirements are to be satisfied:

- i) there must be an agreement;
- ii) agreement must be signed by the parties;
- iii) agreement must be registered compulsorily; and
- iv) the vendee was put in possession of the property and was always ready and willing to perform his part of contract.

As seen from the record, none of the above conditions has been fulfilled by the 1st respondent to enforce the agreement of sale, dated 17.06.1995. Therefore, *prima facie*, the 1st respondent has no semblance of right over the property to claim any right, title or

interest. When he has no title or right over the property, the question of impleading him as a party to the suit does not arise.

8. Learned counsel for respondent No.1 herein further contended that in order to avoid multiplicity of proceedings, the party can be impleaded. Since the third party has no right, title or interest over the schedule property, the question of multiplicity of proceedings may not arise. Therefore, respondent No.1 has to work out his remedies elsewhere, but not in present suit. Hence, the impugned order is liable to be set aside.

9. Accordingly, the Civil Revision Petition is allowed setting aside the order, dated 31.07.2014, in Interlocutory Application No.515 of 2013 in Original Suit No.178 of 2012 passed by the Additional Senior Civil Judge, Narasaraopet. There shall be no order as to costs. Miscellaneous Petitions, if any, pending in this revision shall stand closed.

JUSTICE K.C. BHANU

Date:27.02.2015

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