

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

CIVIL REVISION PETITION No.5215 of 2013

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ORDER:

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This Civil Revision Petition is filed challenging the order

dt.21-08-2012 in I.A.No.443 of 2012 in O.S.No.626 of 2007 of the

V Additional District Judge (FTC), Ranga Reddy District at L.B. Nagar, Hyderabad.

2. The petitioner herein is a third party to the suit.

3. The 1st respondent filed the said suit against respondent Nos.2 to 4 seeking partition of the plaint schedule properties and seeking 1/4th share therein.

4. He filed I.A.No.443 of 2012 under Order I Rule 10 C.P.C. alleging that after he filed the suit and after summons were served on respondents, the 4th respondent gifted 'A' schedule property to petitioner on 27-08-2007; and therefore the petitioner ought to be impleaded in the suit, since the transfer in favour of petitioner is hit by Section 52 of the Transfer of Property Act, 1882.

5. The petitioner filed a counter-affidavit opposing the said application admitting the execution of gift settlement deed in its favour on 27-08-2007 and contending that the said property is not the ancestral property of 1st respondent/1st plaintiff's grand father and that the property actually belongs to 4th respondent only, who is brother of 1st respondent. Other contentions on the merits of the case were also raised.

6. By order dt.21-08-2012, the Court below allowed I.A.No.443 of 2012. It held that the question whether the suit schedule property is an ancestral property or not can only be decided after trial; if the suit schedule properties are ancestral properties, the 1st respondent would get a share in it; therefore, the petitioner, who is the present holder of the property, is necessary and proper party since it is likely to be affected by any order that may be passed in the suit.

7. Challenging the same, this Revision is filed.

8. Heard Sri K.Govind, learned counsel for petitioner.

9. Although the learned counsel for petitioner sought to contend that petitioner is unnecessarily impleaded in the suit, and that

4th respondent alone is the absolute owner of the property

and was competent to execute it to petitioner under the gift settlement deed dt.27-08-2007, I am of the opinion that the transfer in favour of petitioner, having occurred after the suit was filed, the petitioner would be affected in case the 1st respondent succeeds in the suit and gets a decree for partition of the 'A' schedule property in the suit, which is covered under gift settlement deed in favour of petitioner. Therefore it is in the interest of petitioner that it is there on record to protect its interest in the said property.

10. In this view of the matter, I do not find any merit in the Revision and it is accordingly dismissed. No costs.

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

JUSTICE M.S. RAMACHANDRA RAO

Date: 03-09-2015

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