

THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO
CIVIL REVISION PETITION NO. 5127 OF 2014

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ORDER:

Newly impleaded defendants 15 to 19 to the partition suit O.S.No.798 of 1998 are the petitioners herein. Earlier, they made an attempt to get impleaded as defendants to the suit. That was not allowed by the Trial Court. However, they were impleaded to the final decree proceedings which were pending. Then, the petitioners herein came to this Court and instituted two revision petitions C.R.P.Nos.848 & 849 of 2012. Both those revision petitions have been disposed of by this Court on 12.06.2012 holding that having permitted the petitioners to be impleaded as respondents to the final decree proceedings, the Trial Court erred in not permitting them to be impleaded as defendants to the suit and accordingly allowed the revisions and impleaded the petitioners herein as defendants 15 to 19 in the suit. It is also appropriate to notice, during the course of the said judgment, it is observed as under:

“..... The question, whether the said decree was collusive or not, needs to be examined in the final decree proceedings and it was premature for the lower Court to embark upon that question at the stage of considering the implead applications of the petitioners in the final decree proceedings as that would be a triable issue in the final decree proceedings.”

Now, the petitioners herein sought for filing a written statement which permission has been denied, as a result of which the present revision is filed.

The question that is needed to be examined in this revision is whether the petitioners herein really require filing a written statement in

a suit which is already decreed preliminarily and the final decree proceedings are pending. Therefore, at this stage, the interests of the petitioners herein will be protected adequately if it is noted that the petitioners objection with regard to the collusive nature of the preliminary decree can be examined independently and further, in case the preliminary decree is to be carried to its logical end, the particular property which the petitioners herein allegedly purchased from their predecessors in interest and title should stand allocated to the share of such a party, so that the petitioners right title and interest to the said property, having been purchased by them from the said party would not get adversely affected by the final decree.

Therefore, any objection which the petitioners are entitled to raise about the collusive nature of the decree will be examined independently and simultaneously. The objection of the petitioners for securing the allocation of the property purchased by them to the share of their predecessor in interest shall also be examined, while working out the equities amongst various sharers in the final decree proceedings.

With this, the civil revision petition stands disposed of.

Consequently, miscellaneous applications pending shall also stand closed. No costs.

JUSTICE NOOTY RAMAMOHANA RAO

20.01.2015
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