

***THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO**

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+C.R.P.NO. 2046 OF 2015

% 10-06-2015

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Between:

Sri Anthati Kondal

..... Petitioner.

AND

Sri N. Laxma Reddy and others.

.....RESPONDENTS

For the Petitioner : Srinivas Velgapudi.

For the Respondents : None appeared.

< Gist:

> Head Note:

? CITATIONS:

THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

C.R.P.No.2046 of 2015

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ORDER:

This Revision is preferred by the petitioner in I.A.No.1067 of 2014 moved in O.S.No.1546 of 2006 seeking impleadment as Defendant No.22 to the suit. Respondents 1 to 4 herein are the plaintiffs, while the other respondents are either the defendants or those impleaded as the legal representatives of the deceased parties. Their presence or, for that matter, their absence makes no difference for our inquiry.

I.A.No.1067 of 2014 moved by the present petitioner has not been opposed by the plaintiffs, nor the other defendants did oppose that. Defendant No.9 claims to be the *bona fide* purchaser of a part of the land forming part of the suit schedule property, with which piece of land the present petitioner is concerned. It is pointed out that the father of the petitioner herein has been impleaded to the suit. It is asserted by the petitioner that no summons were served on him, but however, service is effected by taking out publication by way of substituted service. In para 3 of the affidavit filed in support of I.A.No.1067 of 2014, the petitioner has asserted as under:

“I further submit that no summons were served upon my father during his lifetime. In fact, the Publication was made in a News paper which has no circulation. My father had no knowledge about the pendency of the above suit. My father died on 10-11-2010 leaving behind myself being son and my mother, namely Smt. A. Anjamma as his legal heirs and successors in interest.”

Thereafter, usual averments as to how the petitioner has got a right in the suit schedule property has been spelt out.

It is noteworthy that nowhere in the affidavit filed in support of I.A.No.1067 of 2014, did the petitioner set out as to how he has come to know about the pendency of the suit for partition. The suit, as it is, was instituted in the year 2006. It appears that the

matter was coming up for Judgment, literally. When the case was posted for final arguments, it appears that the plaintiffs have taken several adjournments and submitted their arguments at long last. When the matter was posted for Judgment, the plaintiffs have filed an interlocutory application for impleading some other third-parties as parties to the suit. That Application was also dismissed by the Court. Thereafter, the present application in I.A.No.1067 of 2014 is filed. It is, therefore, contended by defendant 9 that there are no *bona fides* behind the said Application and it is only intended to protract and prolong the issue, so that it will not get decided one way or the other.

In the absence of any reasonably-believable explanation as to how all of a sudden the petitioner herein has gained knowledge about the pendency of a civil suit, which came to be instituted in the year 2006, and all other developments that have taken therein, the assertion of defendant 9 that the present Application lacks *bona fides* gained strength. When the petitioner could assert that no summons were served during the lifetime of his father and that service was effected through substituted service, it will not be unreasonable to presume that the petitioner is in the know of the procedure that is normally adopted by the civil Court. If he is that much aware, as is sought to be made out from the contents of para 3 of the affidavit filed in support of I.A.No.1067 of 2014, extracted supra, the petitioner owes a clear obligation to explain to the Court as to how he has come to know of all these developments all of a sudden and moved an Application only in January, 2014.

I do not find any infirmity, either legal or otherwise, in exercise of jurisdiction carried out by the Court below in dismissing I.A.No.1067 of 2014, not only because the said Application is a belated one, but it clearly lacks any *bona fides*.

The Civil Revision Petition is, therefore, dismissed at the admission stage, but however, without costs.

Consequently, the miscellaneous petitions, if any, stand dismissed.

NOOTY RAMAMOHANA RAO, J.

Note:

LR copy to be marked.

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mrk

10.06.2015.