

HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

CIVIL REVISION PETITION Nos.4151 & 4174 of 2014

Date:23.01.2015

CIVIL REVISION PETITION No.4151 of 2014

Between:

M.Ashok Srinivasa Raju,
S/o M.V.Rama Raju and another.

.....

Petitioners

And:

K.Satyavathi @ Satya,
W/o K.S.Raju and six others.

...Respondents

Counsel for the Petitioners: Sri C.Tulsi Krishna
for Sri A.Venkatesh

Counsel for the Respondents: Sri Govind Reddy Mandadi

The Court made the following:

COMMON ORDER:

These two Civil Revision Petitions arise out of two allied Interlocutory Applications, viz., I.A.Nos.358 and 359 of 2014 filed in O.S.No.55 of 2003 on the file of learned V Additional District Judge, Ranga Reddy

District at L.B.Nagar. Hence, they are heard and being disposed of together.

Respondent No.1 has filed O.S.No.55 of 2003 for specific performance of agreement of sale against respondent Nos.2 to 7 and petitioner Nos.1 and 2 herein. The petitioners, being the subsequent purchasers, were impleaded as defendant Nos.7 and 8 in the suit. By the time of their impleadment, P.W-1 was already examined. Therefore, after their impleadment, they filed I.A.No.339 of 2009 under Order XVIII Rule-17 read with Section 151 of the Code of Civil Procedure with a prayer to recall P.W-1 for cross-examination on their behalf. The lower Court by order, dated 17.11.2009, has allowed the said application, subject to the condition that they are entitled to cross-examine P.W-1 on the limited questions as to whether there were any persons who are owners of the said property other than the parties to the agreement and also whether they are *bona fide* purchasers. In pursuance of the said order, P.W-1 was recalled and was cross-examined on behalf of the petitioners. After closing the evidence and at the time of arguments, the petitioners have come out with I.A.No.358 of 2014 for re-opening the evidence of respondent No.1-plaintiff and I.A.No.359 of 2014 for recalling P.W-1 for further cross-examination. These two applications having been dismissed by the lower Court by common order, dated 01.07.2014, defendant Nos.7 and 8 have filed these two Civil Revision Petitions.

At the hearing, Sri C.Tulsi Krishna, learned counsel representing Sri A.Venkatesh, learned counsel for the petitioners, submitted that though the right of the subsequent purchasers to resist the suit was limited to the aspects of ownership and *bona fide* purchasers, the

Apex Court in ***Ram Awadh (dead) by Lrs. and others Vs. Achhaibar Dueby and another***^[1] held that all the defences that were available to the original owner are also available to the subsequent purchasers and that as the said legal position was not kept in mind by the lower Court while passing order, dated 17.11.2009, in I.A.No.339 of 2009, the petitioners have filed the present applications for re-opening the evidence of P.W-1 and for recalling her for further cross-examination.

I am afraid, I cannot accept this submission of learned counsel for the petitioners.

Not only that the petitioners have allowed order, dated 17.11.2009, in I.A.No.339 of 2009 to become final, but also they have acted in furtherance thereof by cross-examining P.W-1 on the aspects permitted by the lower Court. Therefore, the petitioners cannot turn round and seek to further cross-examine P.W-1 after the entire evidence was closed and the suit is set out for arguments.

In this view of the matter, the lower Court has rightly dismissed the said applications filed by the petitioners. Therefore, I do not find any merit in these Civil Revision Petitions and they are accordingly dismissed.

As a sequel to dismissal of the Civil Revision Petitions, CRPMP.Nos.5683 and 5711 of 2014 filed by the petitioners for interim relief are dismissed as infructuous.

JUSTICE C.V.NAGARJUNA
REDDY

23rd January, 2015

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[\[1\]](#) MANU/SC/0066/2000=AIR 2000 SC 860