

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

Civil Revision Petition No.754 of 2015

ORDER:

This revision, under Article 227 of the Constitution of India, is preferred against the Order of the 1st Additional Junior Civil Judge, Chittoor, in I.A.No.798 of 2014 in O.S.No.324 of 2011 dated 29.12.2014.

The petitioner herein is the son of the first plaintiff in the Suit. He filed an application under Order 1 Rule 10 CPC praying that he be impleaded as the 6th plaintiff in the Suit. It is his case before the Court below that his father filed the Suit without informing him; he had purchased Ac.2.00 acres of land by way of registered sale deeds from his father; and any order passed in the Suit would not only affect his rights, but would also result in multiplicity of proceedings.

In the order under revision, the Court below noted that the sale deeds filed by the petitioner did show that he had purchased a total extent of Ac.2.00 cents of land; the Suit filed by the plaintiffs was for bare injunction against the defendants-respondents 6 and 7; the plaintiffs were not claiming any remedy or relief against the proposed petitioner-plaintiff; if the petitioner had any right over the Suit schedule property, his remedy was to file a separate Suit against the plaintiffs or respondents 1 to 5; in a Suit for bare injunction, the Court could only look at the prima-facie possession of the plaintiffs, and would not decide the right and title of the parties; it was for the plaintiffs to choose against whom the relief should be sought; and the petitioner could not be permitted to implead himself as a plaintiff in a Suit filed by others, as he is neither a necessary nor a proper party thereto.

Sri K.S.Gopalakrishnan, Learned Counsel for the petitioner, would submit that an order of injunction passed in the Suit would adversely affect the petitioner's rights; while the petitioner may not be

a necessary party, impleading him in the Suit would enable the Court below to avoid multiplicity of proceedings; and the very same issue fell for consideration before the Allahabad High Court in **Soraj Goyal v. Munshi Lal**^[1].

As has been noted by the Court below, the Suit is for bare injunction wherein the question of title would not be examined. The plaintiffs in the Suit have chosen to seek injunction only against the defendants therein. Any decree, passed by the Court below, would only bind the parties thereto; and the petitioner, not being a party to the Suit, would not be bound by the said judgment and decree.

In **Soraj Goyal**¹, the Allahabad High Court held that it would be in the interest of substantial justice that all parties must be heard with regard to the disputed rights; no prejudice would be caused to the petitioners, if they are heard; on the other hand, if they are prevented from impleadment and hearing, injustice may be caused to them as they claim right on the property in dispute; and substantial justice would require that all parties be impleaded and heard in the Suit.

The Court below has exercised its discretion not to implead the petitioner herein, as a party to the Suit, holding that as the Suit was for bare injunction, it was for the plaintiffs therein to choose against whom the relief should be sought. The right or title of the petitioner, over the Suit schedule property, has not put in issue therein. As held by the Court below it is for the plaintiffs to choose against whom they should seek relief. Any decree passed in the Suit would only bind the parties thereto. As the petitioner is not a party thereto the decree, if any passed later, would not bind him. If the petitioner has any grievance with regards his title, or interference with his possession, it is for him to institute independent legal proceedings.

The jurisdiction which this Court exercises, under Article 227 of the Constitution of India, is supervisory and not appellate. Save patent illegality, or substantial injustice being caused to the person invoking

its jurisdiction, this Court would be loathe to interfere with the discretion exercised by the Court below. The order of the Court below does not suffer from a patent illegality nor can the petitioner be said to have suffered substantial injustice on his not being impleaded as the 6th plaintiff in the Suit. I see no reason, therefore, to interfere with the discretion exercised by the Court below.

The Civil Revision Petition fails and is, accordingly, dismissed. The Miscellaneous Petitions, if any pending, shall also stand dismissed. No costs.

(RAMESH RANGANATHAN, J)

Date:06.03.2015.

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[\[1\]](#) LAWS(ALL)-2002-12-119 = ALLLR-2003-51-367