

THE HON'BLE SRI JUSTICE K.C.BHANU

CIVIL REVISION PETITION No.290 OF 2015

ORDER:

The Civil Revision Petition is directed against the order, dated 10.12.2014, in I.A.No.849 of 2014 in O.S.No.177 of 2013 on the file of the Principal Senior Civil Judge, Narasaraopet, whereunder and whereby, petition filed by respondent No.1 herein/plaintiff under Order I Rule 10 of the Code of Civil Procedure, 1908 (for short, "C.P.C.") to implead the petitioner herein/proposed party as defendant No.8 in the main suit and for consequential amendment, was allowed.

2. Respondent No.1 herein/plaintiff filed O.S.No.177 of 2013 against respondent Nos.2 to 8 herein/defendants for specific performance of agreement of understanding, dated 30.06.2012, and for possession of the schedule property, or in the alternative, to cancel the sale deed, dated 11.10.2010, vide document No.16408/2010 executed nominally by the plaintiff in favour of defendant No.1. It is stated by the plaintiff that respondent Nos.4 to 6 herein executed a nominal and sham sale deed, dated 5.1.2013, in favour of respondent Nos.7 and 8; that the sale deed is invalid and respondent Nos.7 and 8 are not *bona fide* purchasers and that when the trial Court granted temporary injunction restraining respondent Nos.2 to 8 herein from alienating the schedule property, fraudulently, respondent Nos.7 and 8 herein brought into existence collusive and nominal sale deed in favour of the petitioner herein. As the petitioner herein is a necessary and proper party, plaintiff filed I.A.No.849 of 2014 to implead the petitioner herein/proposed party as defendant No.8 in the main suit and for consequential amendment, and the same was allowed. Challenging the same, proposed defendant No.8 filed the present Civil Revision Petition.

3. Heard the learned counsel for the petitioner/proposed defendant No.8.

4. Learned counsel for the petitioner contended that the petitioner herein/proposed party is not a party to the memorandum of understanding; that the petitioner herein purchased the property from respondent Nos.7 and 8 herein and thus, he acquired legal interest for a valid consideration and he is in enjoyment of the property and therefore, he prays to set aside the impugned order.

5. Sub-rule (2) of Rule 10 of Order I C.P.C. enables a Court to strike out the name of any party improperly joined, or to add any person as a party, who ought to have joined as a plaintiff or defendant. The primary object of enacting this provision is to bring before the Court at one and the same time all the persons interested in the dispute so that all the controversies in the suit may be finally determined once and for all in the presence of the parties without delay. To add a party, the rule requires fulfilment of two grounds. (i) such person ought to have been joined either as a plaintiff or defendant, but is not so joined and (ii) without his presence, the question involved in the suit cannot be decided finally and effectively. The suit was filed for enforcement of agreement of understanding, dated 30.6.2012, by giving a direction to defendant Nos.3 to 5 to execute a registered sale deed in favour of the plaintiff in respect of land to an extent of Ac.2.32 cents out of Ac.9.34 cents in D.No.120 of Palapadu Village, Narasaraopet Mandal. It is not in dispute that the petitioner herein/proposed party seems to have purchased the said land from respondent Nos.7 and 8 herein under a registered sale deed, dated 30.6.2014. By that time, the suit was already pending. So, the proposed party is a *pendente lite* purchaser. The property purchased by the petitioner herein and the property covered under the suit is one and the same. Therefore, the petitioner herein has got semblance of right over the suit schedule property. So, it cannot be said that the petitioner is not having any interest over the

suit schedule property. Therefore, the trial Court, after considering the material available on record, rightly allowed the said petition by impleading the petitioner herein as defendant No.8 in the suit. Cogent reasons have been given by the trial Court in allowing the said application. Hence, that order does not suffer from any illegal infirmities so as to call for interference by this Court. Therefore, the Civil Revision Petition is devoid of merits and is liable to be dismissed.

6. Accordingly, the Civil Revision Petition is dismissed at the stage of admission. There shall be no order as to costs. Miscellaneous petitions pending, if any, in this Civil Revision Petition shall stand closed.

JUSTICE K.C.BHANU

Date: 06.02.2015
AMD

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