

**THE HON'BLE SRI JUSTICE M.S. RAMACHANDRA
RAO**

CIVIL REVISION PETITION No.3284 of 2014

ORDER:

This Civil Revision Petition is filed challenging the order dt.09-07-2014 in I.A.No.46 of 2014 in O.S.No.78 of 2002 of the Junior Civil Judge, Palakonda.

2. The petitioners herein are plaintiffs in the suit. They filed the suit against respondent Nos.2 to 3 for a perpetual injunction restraining them from cancelling a D-Form patta dt.31-10-1969 issued in favour of one Meduri Sanyasamma, claiming to be her legal heirs. In the plaint, they specifically contended that at the instance of 1st respondent, the 2nd respondent issued a notice to 2nd petitioner and proceedings for cancellation of D-Form patta were initiated.

3. Therefore the 1st respondent filed I.A.No.46 of 2014 under Order I Rule 10 C.P.C. to implead him as 4th defendant in the suit. He contended in the said application that since an allegation has been made against him that he was responsible for initiation of cancellation process for cancellation of the D-Form patta mentioned above, he should be impleaded as a party in

the suit. He also claimed that the subject property might be allotted to him or his wife by way of issuance of a D-Form patta and because the suit had been filed and a temporary injunction had been granted therein on 05-04-2004, he is interested in getting impleaded as a party. He also raised a plea that a Civil Court cannot restrain the Revenue authorities from discharging their statutory duties. He also mentioned that he had earlier filed I.A.No.132 of 2013 for impleadment, but it was dismissed by the trial Court by order dt.01-08-2013; he had questioned the same in C.R.P.No.3687 of 2013; the same had been allowed on 29-11-2013 granting him liberty to file a fresh application under Order I Rule 10 C.P.C.; and therefore he filed the present application.

4. Counter affidavit was filed by 2nd petitioner opposing this application. In that counter, the 2nd petitioner contended that the wife of 1st respondent had earlier attempted to get impleaded by filing I.A.No.355 of 2005, but it was dismissed on 11-10-2006; that she even sought a Review of the said order, which was also dismissed; this has delayed the disposal of the suit; and even the 2nd petitioner has nothing to do with the suit schedule property.

5. By order dt.09-07-2014, the Court below allowed the said application. It held that Ex.P-1 proceedings filed by 1st respondent indicate that Revenue Divisional Officer had cancelled the patta in the name of Meduri Sanyasamma, the grand mother of 2nd petitioner and directed the Mandal Revenue Officer to issue a patta in the name of

1st respondent, if he is entitled as per law; in view of Ex.P-1, the

1st respondent had succeeded in establishing that he is interested in the suit schedule property and that he is a necessary and proper party to the suit. It also observed that 1st respondent had earlier filed I.A.No.132 of 2013, but at that time he did not file Ex.P-1; the Court has got discretion to implead a third party in the suit if it thinks that their presence is necessary to adjudicate the questions involved in the suit to avoid multiplicity of litigation; merely because the earlier attempts by the wife of 1st respondent and 1st respondent did not fructify, that is no ground to reject the I.A.

6. Challenging the same, this Revision is filed.

7. Heard Sri K.Purushotham, learned counsel for petitioners. Although the learned counsel for petitioners

sought to contend that consequential amendments as mandated by Rule 28 of the Civil Rules of Practice have not been indicated by 1st respondent in the affidavit filed along with I.A.No.46 of 2014, the said contention has no merit inasmuch as in C.R.P.No.3687 of 2013, to which the petitioners are parties, it was categorically held that application of 1st respondent for impleadment as a party cannot be rejected on the ground of non-compliance with Rule 28 of Civil Rules of Practice.

8. I am satisfied that in view of Ex.P-1 proceedings of the Revenue Divisional Officer dt.17-07-2003, the 1st respondent is vitally interested in the subject matter of the suit and is justified in seeking impleadment, since Ex.P-1 indicates that the patta granted in the name of the grand mother of the 2nd petitioner was cancelled and the Mandal Revenue Officer was directed to issue patta in the name of 1st respondent, if he is entitled as per law.

9. I therefore do not find any merit in the Revision and it is accordingly dismissed. No costs.

10. As a sequel, miscellaneous petitions pending if any, shall stand disposed of.

JUSTICE M.S. RAMACHANDRA RAO

Date: 16-09-2015
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