

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH**

Civil Revision Petition No.2761 of 2014

Between:

Nelavayi Shanker Reddy @ Chandrasekhar Reddy

... Petitioner(s)

and

Maramreddy Srinivasulu Reddy and another

... Respondent(s)

DATE OF JUDGMENT PRONOUNCED: ***04th August, 2015.***

SUBMITTED FOR APPROVAL:

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

1	Whether Reporters of Local newspapers may be allowed to see the Judgments?	Yes/No
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2	Whether the copies of judgment may be marked to Law Reports/Journals	Yes/No
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3	Whether Their Ladyship/Lordship wish to see the fair copy of the Judgment?	Yes/No
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**THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA
RAO**

Civil Revision Petition No.2761 of 2014

ORDER:

This Civil Revision Petition is filed under Article 227 of the
Constitution of India challenging the order dt.11.07.2014 in

I.A.No.28 of 2012 in A.S.No.174 of 2009 of VI Additional District Judge, Nellore.

2. The petitioner herein filed suit O.S.No.422 of 2005 of the I Additional Junior Civil Judge, Nellore against the 1st respondent for perpetual injunction restraining the 1st respondent from interfering with his possession and enjoyment of the plaint schedule property.

3. Written statement was filed by the 1st respondent specifically taking a plea that the property is in the possession of his mother and denying that the petitioner is in possession of the plaint schedule property.

4. The suit was dismissed on 27.07.2007 holding that the petitioner was not in possession of the plaint schedule property and that all the documents filed by the 1st defendant show that the mother of the 1st defendant was in possession and enjoyment of the plaint schedule property prior to filing of the suit and also on the date of filing of the suit and therefore she ought to have been added as a party to the suit. It held that the suit is bad for non joinder of necessary party and such non joinder is fatal.

5. Challenging the said judgment, A.S.No.174 of 2009 is filed by the petitioner before the VI Additional District Judge,

Nellore and after three years of filing the said appeal, the petitioner filed I.A.No.28 of 2010 to implead the mother of the 1st respondent as 2nd respondent in the appeal. The lower appellate Court dismissed the said application. It held that in spite of the 1st respondent pointing out that the 2nd respondent, his mother, was in possession of the plaint schedule property even in the written statement filed before the trial Court, the petitioner did not take any steps to implead her in the suit, and three years after the appeal is filed, this application has been filed. It therefore held that there are no *bona fides* in the application.

6. Challenging the same, this Revision is filed.

7. Counsel for the petitioner contended that under Order I Rule 10(2) CPC at any stage of the proceedings, party can be impleaded and therefore even though the application filed by the petitioner was filed at a belated stage, the lower Appellate Court should have allowed the said I.A.

8. It is not in dispute that the petitioner had filed the suit against the 1st respondent alone alleging interference with his alleged possession over the suit schedule property. The 1st respondent did file a written statement stating that it was the 2nd respondent, his mother, who was in possession of the plaint schedule property. In spite of the alleged possession of the

2nd respondent having been brought to the notice of the petitioner in the suit, the petitioner had not chosen to implead the 2nd respondent before the trial Court. In fact the suit was dismissed on the ground that the 2nd respondent was a necessary party. Having filed an appeal in the year 2009, only in 2012 this application is filed to implead the 2nd respondent. If the 2nd respondent is now impleaded as a party to the suit, ten years after the suit is filed, it will cause grave prejudice to the 2nd respondent.

9. In this view of the matter, I am of the opinion that the Court below was right in not permitting the petitioner to implead the 2nd respondent as a party in the appeal ten years after filing of the suit and holding that the application filed by the petitioner was not *bona fide*.

10. There is no error of jurisdiction in the order passed by the Court below warranting interference by this Court in exercise of the jurisdiction of this court under Article 227 of the Constitution of India.

11. The Civil Revision Petition is, therefore, dismissed. There shall be no order as to costs.

12. Consequently, Miscellaneous Petitions pending if any, shall stand closed.

M.S.RAMACHANDRA RAO, J

04th August, 2015.
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