

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

CIVIL REVISION PETITION No.4091 of 2014

ORDER:

This Revision is filed challenging the order dt.24-06-2014 in I.A.No.217 of 2012 in O.S.No.19 of 2009 of the I Additional Junior Civil Judge, Bhimavaram.

2. The petitioner herein is defendant in the said suit.
3. The said suit was filed by respondent Nos.1 and 2 against petitioner for recovery of possession of plaint schedule property, for damages, future damages and costs. Pending suit, the 2nd respondent died.
4. I.A.No.217 of 2012 was filed by respondent Nos.3 and 4 claiming to be the wife and daughter of deceased 2nd respondent. They stated that 2nd respondent died on 21-03-2011 and they have succeeded to his estate.
5. This application was opposed by petitioner stating that 4 registered sale deeds had been executed in respect of the suit schedule property in favour of third parties on 30-10-2010 and thereafter respondent Nos.3 and 4 have no right, title and interest in the property and their presence is not necessary.
6. By order dt.24-06-2014, the Court below allowed the said application. It, however, did not assign reasons why the application was allowed by it.
7. Learned counsel for petitioner Sri S.Sudeep Reddy submits that

once there is a sale of the property, which is the subject matter of the suit in favour of third parties, there is no necessity for the legal representatives of the deceased 2nd respondent/2nd plaintiff in the suit to be impleaded and the Court below therefore should have dismissed I.A.No.217 of 2012.

8. Learned counsel for respondent Nos.1, 3 and 4 Sri V.S.R.Anjaneyulu, on the other hand, states that the relief claimed in the suit is not only for delivery of possession, but also for damages for the period from 01-11-2008 till 22-12-2008 and thereafter also till delivery of possession, and so upto the date of execution of sale deeds dt.30-10-2010, the estate of 2nd respondent would be entitled to claim damages. He therefore pleaded that respondent Nos.3 and 4 cannot be said to be not necessary parties to the suit.
9. I fully agree with the contention of the learned counsel for respondents. The claim for damages by respondents is for the period from 01-11-2008 till delivery of possession of the property. The claim for damages upto the date of execution of registered sale deeds dt.30-10-2010 can certainly be made by the legal representatives of the deceased 2nd respondent and the said claim will continue to survive notwithstanding the transfer of property, which is subject matter of the suit in favour of third parties on 30-10-2010.
10. Therefore, I do not find any merit in the Revision and it is accordingly dismissed. No costs.
11. As a sequel, miscellaneous petitions pending if any, shall stand

disposed of.

JUSTICE M.S. RAMACHANDRA RAO

Date: 23-09-2015

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