

HON'BLE SRI JUSTICE M.S. RAMACHANDRA RAO

CIVIL REVISION PETITION No.501 OF 2015

ORDER:

This Civil Revision Petition is filed challenging the order dated 18.11.2014, passed in I.A. No.404 of 2013 in O.S. No.368 of 2012 on the file of the Court of the learned Additional Senior Civil Judge, Chittoor.

2. The petitioners herein are the third parties to the above suit.

3. The suit was filed by the first respondent herein against the respondents 2 to 4 for declaration of his title and consequential injunction restraining the respondents 2 to 4 from interfering with the possession and enjoyment of the plaint schedule property.

4. The petitioners herein filed I.A.No.404 of 2013 under Order 1 Rule 10 of the Code of Civil Procedure to implead themselves as defendants 4 and 5 in the suit. They alleged that the subject property was originally assigned under DKT patta to their father Siddaiah and the first respondent's grandfather obtained a registered sale deed from the petitioners' father contrary to the provisions of the Act 9 of 1977, which prohibited any such alienation; therefore, the said sale deed is void; and the petitioners are necessary and proper parties to the suit.

5. The first respondent, who denied the same, contested the said application. He contended that the petitioners are not necessary parties since they have no right or title and possession over the same and the sale deed executed by the father of the petitioners in favour of the grandfather of the first respondent was on 18.07.1966, and since then, the first respondent had been in continuous peaceful possession and enjoyment of the property.

6. By order dated 18.11.2014, the Court below dismissed the I.A. No.404 of 2013. It held that the sale deed executed by the father of the petitioners in favour of the grandfather of the first respondent was on 18.07.1966 and if the petitioners have any grievance they should have challenged it long back and they cannot now dispute it after lapse of 48 years. It further held that their impleadment would change the nature of the suit and this cannot be permitted.

7. The learned counsel for the petitioners contends that under the provisions of the Act 9 of 1977, the sale deed dated 18.07.1966 is void and the petitioners, being the children of the original assignee Siddaiah under the provisions of the said Act, would be entitled to the said land. Therefore, they should be impleaded as parties.

8. The questions whether the petitioners are the children of the original assignee and whether the land

itself is assigned land are all issues which require evidence. It is open to the petitioners to file a separate suit to establish these facts. If the petitioners are impleaded in the present suit, it would change the nature of the suit. The interest of the State is adequately protected by the respondents 2 to 4. The presence of the petitioners is therefore unnecessary for adjudication of the issues raised in the suit.

9. Therefore, I do not find any merit in the Revision and the same is liable to be dismissed.

10. In the result, the Civil Revision Petition is dismissed. There shall be no order as to costs.

The miscellaneous applications pending, if any, in this Civil Revision Petition shall stand closed.

**JUSTICE M.S. RAMACHANDRA
RAO**

Date: 12.06.2015

MVA

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