

HON'BLE SRI JUSTICE G. CHANDRAIAH

C.R.P. No. 4636 of 2015

DATE: 06.11.2015

Between:

Chavali Venkata Sambasiva Rao

.. Petitioner

and

Mamillapalli Lakshmi Prasad

and another

.. Respondents

ORDER:-

This Civil Revision Petition is directed against the order dated 01.10.2015 passed in I.A.No. 440 of 2014 in O.S.No. 104 of 2011 by the learned Principal Junior Civil Judge, Gudivada whereby the petition filed under Section 151 CPC seeking a direction to defendants 1 and 2 to pay paditaram of service inam of Sri Ganga Bramaramba Sametha Malleswara Swamivarla Devasthanam, Pedamaddali, Pamarru Mandal, Krishna District and 1/3rd equal share of Paditaram on crop yield from 2011 to 2014 for four years worth Rs.24,000/- per year from the date of filing the suit which comes to a total of Rs.96,000/- and deposit the same into the account of the suit, was dismissed.

The brief facts of the case are that one Mamillapalli Ramaiah was the Archaka of Bramaramba Sametha Malleswara Swamivarla Temple in Pedamaddali village and he has got service Inam lands in an extent of Ac.2.75 cents situated in R.S.No. 189 situated in Pedamaddali village, Pamarru Mandal, Krishna District. He has got four sons namely 1) Venkata Subbaiah 2) Mallaiah (Yerra Mallaiah) 3) Satyanarayana and 4) Lakshmi Narayana. The 1st defendant is the son of one Satyananarayana @ Pitchaiah, whose father is

Mamillapalli Lakshmi Narayana, the 4th son of Mamillapalli Ramaiah. The 2nd defendant is the son of one Mamillapalli Sundara Ramaiah, whose father is Mamillapalli Venkata Subbaiah, the eldest son of Mamillapalli Ramaiah. The plaintiff is the adopted and foster son of Seetharama Satyanarayana alias Satyanarayana and Papayamma. Satyanarayana is the only son of Mamillapalli Mallaiah (Yerra Mallaiah), who is the second son of Mamillapalli Ramaiah. In other words, the plaintiff and defendant Nos.1 and 2 are the great grandsons of Mamillapalli Ramaiah. While so, the plaintiff was given the post of Archakatvam in two temples in K.Tadepalli and Vijayawada Rural in the year 1983, and thereafter, the foster father of the plaintiff consulted defendant Nos.1 and 2 and proposed to put the plaintiff as Archaka for Sri Ganga Bramaramba Sametha Malleswara Swamivarla Temple, Pedamaddali. Thereafter, Satyanarayan, father of the plaintiff, got 1/3rd share in the temple Manyam i.e. wet land in an extent of Ac.2.75 cents as well as 1/3rd of the crop yield every year and got paditaram every year in equal share out of the yield of the crop i.e. paddy that has been distributed among defendant Nos.1 and 2 till his death. Subsequent to the demise of Satyanarayana on 02.02.1992, 1/3rd share of paditaram was given to his wife Papayamma till her life time. On 17.12.1996, Papayamma died intestate leaving behind the plaintiff as legal heir to her estate and Archakatvam. Later, the plaintiff requested the defendants his 1/3rd equal share of yielded crop of paddy in the land every year, but the defendants under some pretext or the other postponed the matter. Hence, the plaintiff filed suit in O.S.No. 104 of 2011 seeking to declare that the plaintiff is the legally adopted / foster son of his adoptive parents Mamillapalli Seetharama Satyanarayana and Papayamma of Kothuru Tadepalli, Vijayawada Rural Mandal and sought a direction to continue him to perform Archakatvam to Sri Ganga Bramaramba Malleswara Swamivarla Temple and he is entitled to undivided 1/3rd share i.e. Ac.0.91 2/3 cents of the land out of total extent of Ac.2.75 cents for getting paditaram of 1/3rd equal share for his life time with full and absolute rights. During the pendency of the suit, the plaintiff filed I.A.No. 440 of 2014 seeking a direction to defendants 1 and 2 to pay paditaram of service inam of Sri Ganga Bramaramba Sametha Malleswara Swamivarla Devasthanam, Pedamaddali and 1/3rd equal share of Paditaram on crop yield from 2011 to 2014 for four years worth Rs.24,000/- per year from the date of filing the suit which comes to a total of Rs.96,000/- and deposit the same into the account of the suit, however the application was dismissed.

The learned counsel for the petitioner has submitted that the petitioner is the plaintiff and defendant Nos.1 and 2 are the great grandsons of Mamillapalli Ramaiah and even though the petitioner is legally entitled to his share of the property as sought for in the Interlocutory Application, the same is being illegally enjoyed by the defendants, and the trial Court, without application of mind, erroneously dismissed the application, as such, the order impugned is liable to be set aside.

A careful perusal of the material placed on record reveals that the entitlement or otherwise of the claim made by the petitioner-plaintiff shall have to be decided only after full-fledged trial depending upon the evidence adduced by both the parties. Unless the rights of the parties are decided in the suit, it cannot be held that the petitioner is entitled to the relief as prayed for in an Interlocutory application. Since the suit is still pending and the rights of the

parties are not yet crystallized, the relief sought for by the petitioner cannot be granted. Hence, the order under revision passed by the trial Court, in my considered view, is perfectly justified and I do not see any reason to interfere with it.

Hence, there is no merit in this Civil Revision Petition and the same is accordingly dismissed. No order as to costs.

As a sequel to the dismissal of the Civil Revision Petition, Miscellaneous Petitions, if any pending, shall stand disposed of as infructuous.

G. CHANDRAIAH, J

06.11.2015

bcj