

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

[Special Original Jurisdiction]

MONDAY THE TWENTY FIRST DAY OF NOVEMBER
TWO THOUSAND AND SIXTEEN

PRESENT
HONOURABLE SRI JUSTICE SURESH KUMAR KAIT

CIVIL REVISION PETITION NO. 3922 OF 2016

Between:

Yekkanti Yedukondalu ... Petitioner/third party

V/s.

Alladi Raja Manikyam & Ors. ... Respondents/Plaintiff
.

Counsel for the Petitioner: Sri P.Vijaya Kiran

Counsel for the Respondents: None appeared

The court made the following: [order follows]



**HONOURABLE SRI JUSTICE SURESH KUMAR
KAIT**

CIVIL REVISION PETITION NO. 3922 OF 2016

ORDER :

Aggrieved by the order dated 20/01/2016 passed by II-
Additional District Judge, Guntur, in I.A.No. 1585 of 2014 in
OS.No. 147 of 2014, whereby the application filed by the
petitioner/third party under Order-1, Rule-10 of CPC seeking to
implead him as 12th defendant in the suit, which was filed for
partition of the plaint schedule property, this Civil Revision
Petition is filed under Article 227 of the Constitution of India.

2. While dismissed the said application, the trial court has
recorded in the impugned order at para No.5 as under:

5. *"I have gone through the contents in the plaint
and the prayer column. The suit was filed for partition of
the plaint schedule property. To decide whether the plaintiff
is entitled for partition or not, the presence of proposed
party is not at all necessary. The dispute between the parties
is whether the plaintiff is entitled for share or not. To decide
the said fact, whether the present petitioner is a bonafide*

purchaser or not, whether the vendor of the present proposed party has a right to alienate the property or whether the proposed party is a bonafide purchaser for valuable consideration need not be taken into consideration. The present suit can be disposed of effectively even in the absence of the proposed party. There is no hurdle for the petitioner to file a suit, if there is a cause of action seeking necessary relief. I see there are no grounds to implead the proposed party in this petition. Hence, this petition is dismissed.”

3. Sri P. Vijay Kiran, learned counsel appearing on behalf of

the petitioner in support of his contention has relied upon a decision of the Hon'ble Supreme Court [From Calcutta] (Civil Appeal No. 2592 of 2005 {arising out of SLP [C] No. 17780 of 2004} in **AMIT KUMAR SHAW AND ANR. V/s. FARIDA KHATOON AND ANR**¹, [From : Calcutta], wherein their Lordships held at Para Nos. 8 and 9 as under :

8. On a combined reading of Order-1, Rule-10, Order-XXII, Rule-10 of the Code of Civil Procedure and Section 52 of the Transfer of Property Act, can an application for substitution by a subsequent transferee be rejected and the subsequent purchaser be non-suited altogether is the prime question for consideration in these appeals.

¹) AIR 2005 SUPREME COURT - 2209

9. *The object of Order-1, Rule-10 is to discourage contests on technical pleas, and to save honest and bonafide claimants from being non-suited. The power to strike out or add parties can be exercised by the Court at any stage of the proceedings. Under this Rule, a person may be added as a party to a suit in the following two cases:*

(1) When he ought to have been joined as plaintiff or defendant, and is not joined so, or

(2) When, without his presence, the questions in the suit cannot be completely decided.

4. In the present revision, as claimed by the petitioner, he had purchased plot No. 194 to an extent of 200 sq.yards in D.No. 470 out of Ac:0-471/2 cents on instalments basis and as per the compromise petition in I.A.No. 352 of 1997 in OS.No. 76 of 1997 the agent of one Bhashyam Appa Rao by name Sajja Lakshmi Durga Prasad son of Ramaiah had executed a registered sale deed dated 27/07/2000 in favour of the petitioner and delivered him possession and since then he is in continuous possession and enjoyment of the same. By Order dated 20/01/2016, the learned II-Additional District Judge has not disturbed the possession of the

petitioner nor cancelled the aforesaid sale deed, however, rightly observed that the main suit can be disposed of effectively even in the absence of the petitioner and there is no hurdle for the petitioner to file a suit if there is cause of action seeking necessary relief.

5. Accordingly, I do not see any ground to interfere with the order under challenge. Thus, the Civil Revision Petition is sans merit and the same is accordingly dismissed at the admission stage.

No costs.

6. As a sequel, miscellaneous petitions if any pending in this Criminal Petition shall stand disposed of.

JUSTICE SURESH KUMAR KAIT.

21/11//2016

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HONOURABLE SRI JUSTICE SURESH KUMAR KAIT

CIVIL REVISION PETITION NO. 3922 OF 2016



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