

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

CIVIL REVISION PETITION No.4799 of 2016

ORDER :

The revision petitioners who sought for impleadment under Order I Rule 10 C.P.C. as co-defendants in O.S.No.520 of 2010, went unsuccessful in I.A.No.1515 of 202 covered by the impugned order dated 02.01.2016 are no other than the independent plaintiffs in the suit for ejectment of defendants from self-same property in O.S.No.44 of 2009 on the file of XXIV-Additional Chief Judge, City Civil Court, Hyderabad. The suit O.S.No.520 of 2010 maintained by sole plaintiff against four defendants stating that the defendants are, by virtue of the attornment of tenancy, liable to be evicted for the default committed in payment of rent.

2. The proposed defendants-revision petitioners are undisputedly the original owners of the said property, but for the version of the plaintiff in O.S.No.520 of 2010 that there is an irrevocable general power of attorney (GPA) for consideration executed by said original owners and the GPA holder pursuant to which entered into a contract of sale and thereby they got title and by virtue of which there is attornment of the tenancy rights to enforce the eviction of the defendants in O.S.No.520 of 2010. The proposed parties want to come on record saying the plaintiff is not entitled to evict the defendants 1 to 4 of O.S.No.520 of 2010 as they are tenants under the proposed parties-plaintiffs in O.S.No.44 of 2009, which is pending since before filing of the suit in O.S.No.520 of 2010.

3. The defendants 1 to 4 of O.S.No.520 of 2010 are not admitting the tenancy and its attornment from any title of the plaintiff. Section 116 of the Indian Evidence Act, 1872, is thus no way applicable to the facts of the case, further their contest is that they are tenants under the proposed parties original owners-cum-plaintiffs in O.S.No.44 of 2009. The said tenants also filed O.S.No.907 of 2009 for deposit of rents by virtue of the rival claims. In fact, the expression of the Apex Court in **D. Satyanarayana v. P.Jagadish¹ 1987 (4) SCC 424** covers the scope of the lis in this regard.

4. Having regard to the above, though the proposed parties are the proper parties to the suit O.S.No.520 of 2010 as the plaintiff is opposing their impleadment, this Court not chosen to interfere with order of lower Court for they are no way necessary parties. Because they already maintained O.S.No.44 of 2009 which is pending, any of the result of the O.S.No.520 of 2010 behind their back because the plaintiff in O.S.No.520 of 2010 is opposing for their coming on record, no way bind them and shall have no bearing on this lis in O.S.No.44 of 2009 but for to decide the same on own merits.

5. With the above observations, the revision is disposed of. Needless to say, if at all the tenants want to file implead petition of proposed parties, it is left open by virtue of the expression in D.Satyanarayana supra to decide on own merits.

¹ 1987 (4) SCC 424

6. Miscellaneous petitions pending, if any, shall stand closed. No costs.

Dr. B. SIVA SANKARA RAO, J

15th December 2016.

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