

THE HON'BLE SRI JUSTICE S.V.BHATT

CIVIL REVISION PETITION No.3286 of 2016

ORDER:

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Heard Mr.P.Narasimhulu, learned counsel for revision petitioner.

The plaintiff in O.S.No.531 of 2014 on the file of the Principal Junior Civil Judge, Kurnool, is the revision petitioner. The suit is filed for perpetual injunction restraining respondent No.3/defendant No.1 from interfering with peaceful possession and enjoyment of plaint schedule property of revision petitioner. Respondents 1 and 2 filed I.A.No.635 of 2015 under Order 1 Rule 10 of CPC to permit them to come on record as defendants 2 and 3. The revision petitioner opposed the said application. The trial court, after considering the nature of plea set up by the parties and the area of controversy though not on the ground that the proposed parties are necessary parties but proper parties to appreciate the facts in issue, ordered the petition and permitted respondents 1 and 2 to come on record as defendants 2 and 3.

Mr.P.Narasimhulu, appearing for revision petitioner contends that the revision petitioner is the dominus litis of her cause. The suit is one for perpetual injunction. The revision petitioner was right in impleading only 3rd respondent as one of the parties and if the proposed defendants have any grievance with the 3rd respondent herein they ought to have initiated separate proceedings. He further contends that the material available on record would go to show that the impleadment of proposed defendants ought not to have been permitted by trial court.

Since the learned counsel appearing for revision petitioner has

tried to persuade this court with the above submissions, this court deems it fit to refer the vehement submissions canvassed by the learned counsel appearing for petitioner only to be rejected.

The trial court, after perusing the material available on record, has recorded the following findings :-

“The 1st petitioner stated in his affidavit filed in support of the petition that originally the petition schedule property belonged to his wife Zareena Begum who died after giving birth to his son leaving behind his son and him as legal representatives. Even today mutations and electrical charges of the plaint schedule property is on the name of his wife Zareena Begum. But, suppressing the true facts with the support of created documents, the 1st respondent filed the above suit against the 2nd respondent with ulterior intention. The suit filed by the plaintiff as against the defendant as if the plaintiff is a tenant and the defendant is the landlord, and infact his son and himself are the real owners/landlord of the plaint schedule property after the death of his wife, and that they are the necessary parties to the suit proceedings. The 2nd respondent filed counter admitting the relationship between her and petitioners and stating that the 1st respondent filed the above suit purposefully against the 2nd respondent to get ex-parte order from the Court in expectation that she will not approach the Court to contest the matter, as she is unable to move from her house. The 1st respondent/plaintiff contended that she does not know who is Zareena Begum and relationship between her and petitioners.

The petitioners stated that they are necessary parties to the suit as the plaint schedule property belong to Zareen Begum who is wife of 1st petitioner, and said Zareen Begum died leaving behind the petitioners as her L.Rs. Moreover, the 2nd respondent also strengthen the version of petitioner. Hence, in order to safeguard the rights, interest, title and possession over the plaint schedule property of the petitioners, this Court is of the opinion that the petitioners/proposed parties may come on record as defendants 2 and 3 in the main suit.”

From the above, it is clear that with a view to allow participation of the proposed parties, whose presence is proper, the application is ordered.

In the considered view of this court, if the revision petitioner is ultimately successful in persuading the trial court, the anticipatory or proposed threat from the newly added defendants can be worked out in the same suit.

Since the trial court has exercised its discretion, which in the opinion of this Court, does not suffer from patent illegality or irregularity, this court is not inclined to interfere with the order under revision.

The revision fails and accordingly dismissed.

The dismissal of revision shall not be understood as expressing any view on the merits canvassed by revision petitioner or the pleas set up by respondents 1 and 2 herein. These are matters for trial, hence left upon for consideration by the trial court.

Miscellaneous petitions, if any, pending in this Revision Petition shall stand closed. There shall be no order as to costs.

S. V. BHATT, J

Dt: 18-07-2016

Prv

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