

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

Civil Revision Petition No. 71 of 2016

ORDER:

The revision petitioner is unsuccessful third party petitioner in I.A.No.713 of 2015 in I.A.No.206 of 2008 in O.S.No.14 of 2008 by order dated 18.12.2015 passed by the learned I Additional District Judge, Anantapur. There was a suit for partition with preliminary decree among the respondents to the application inter se dated 30.06.2008 passed by lower Court and pursuant to which the plaintiff-Decree Holder against the defendants filed I.A.No.206 of 2008 for grant of final decree to work out the shares.

It is the case of the petitioner by array of all the parties as respondents to the application I.A.No.713 of 2015 that he came to know of these proceedings which are collusive and he purchased the property wayback in the year 1984 and in between the parties to the suit there are no rights remained to claim and thereby he is a necessary party to be impleaded to adjudicate the final decree proceedings but the lower Court dismissed the application with observation that the allegations are vague and it was not specified when he came to know about the proceedings. The scope of Order 1 Rule 10 of the Code of Civil Procedure, 1908 (for short, 'the CPC') particularly clause (2) CPC to be dealt with is to decide whether a necessary party or a proper party for effective adjudication of the lis. Even for arguments sake, there is no date given. Once it is the averment of he came to know recently in filing the application, that itself is not a ground to dismiss without deciding whether at least a proper party or not in case not a necessary party.

Accordingly and in the result, the order dated 18.12.2015 of the trial Court in I.A.No.713 of 2015 in I.A.No.206 of 2008 in O.S.No.14 of 2008 impugned herein is liable to be set aside and the matter is remanded to the lower Court to decide afresh on own merits if necessary by permitting the parties to produce any documents in

support of their claims and to dispose of the application afresh within one month from the date of receipt of this order. No order as to costs.

Pending miscellaneous petitions, if any, in this revision, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date: 11.08.2016

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