

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

CIVIL REVISION PETITION No.5880 of 2016

ORDER:

Impugning the order of the learned IV Senior Civil Judge, City Civil Court, Hyderabad, dated 07.11.2016 in I.A.No.410 of 2016 in O.S.No.87 of 2014 in favour of the revision respondents herein, whose application was allowed to come on record as co-defendants to the suit for bare injunction maintained by two plaintiffs against three defendants, said plaintiffs maintained the revision.

2. Heard both sides. Perused the material on record.

3. The scope of law is very clear from the wording of Order I Rule 10 (2) C.P.C., that at any stage of the suit either to strike out or add any party, Court got the power. The exercise of said judicial discretion no doubt be supported by reasons, outcome of application of mind to the facts in arriving a conclusion as to proposed parties are if not necessary atleast proper parties for the complete and effective adjudication of the lis. Necessary party is one, as contemplated by order I Rule 13 r/w Rule 9 C.P.C. of whose non-impleadment, very suit will not survive and so far as proper party is concerned, even though suit otherwise survives, the Court cannot effectively and completely adjudicate the lis. The plaintiff, no doubt, *dominus litus* to chose against whom to maintain the claim for the alleged threatened interference for the relief of bare injunction. However, that is not the be all and end all, as that no way takes away the power of the Court to implead or delete any party at any stage of the

suit proceedings. The petitioners sought for impleadment did not specifically mention in the affidavit petition of they are in possession of the property to say plaintiffs' claim of possession is false and thereby they are necessary parties to establish their possession to non-suit the plaintiffs by seeking impleadment. There is no such observation even in the impugned order. However Ex.P5-P.T.Register entries placed reliance in the course of hearing apart from so called pahanis of the year 1975-76-Ex.P6 to support the contention. Once there is a requirement of observation by the Court if at all of any basis to implead either as a necessary or proper party in the lis, maintained by plaintiffs against defendants, for the third party to come on record and that is lacking in the order, the order no way survives.

4. Having regard to the above, the impugned order of the lower Court is set aside and the matter is remanded to the lower Court by giving opportunity to the parties to place any additional material, not by additional pleading, in support of the respective contentions to decide afresh on own merits, preferably within two months from the date of receipt of a copy of this order. No order as to costs.

5. Consequently, miscellaneous petitions pending, if any, shall stand dismissed.

Dr. B. SIVA SANKARA RAO, J

Date:06.12.2016
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