

CIVIL REVISION PETITION No. 1332 OF 2016

ORDER:

This Court ordered notice before admission and the same was served on the respondent.

The order under challenge before this Court in the present revision filed under Article 227 of the Constitution of India is the order dated 17-02-2016 in I.A.No. 282 of 2015 in O.S.No. 144 of 2013 on the file of the Court of Senior Civil Judge, Kamareddy (for short, 'the trial Court'), passed under Order I Rule 10 of the Code of Civil Procedure (for short, 'C.P.C.') to implead the proposed parties who are legal-heirs of late Venkatesham who died on 27-02-2012.

The suit was filed on 11-07-2013 for specific performance based on contract of sale dated 11-04-2001 but the petitioner could not implead all the legal-heirs of the deceased Venkatesham as the defendants since he was not aware of the legal position and the present petition is filed on the advice of his counsel.

The respondents opposed the petition on various grounds more particularly on the ground that without serving notice on the proposed parties, they cannot be impleaded; there is abnormal delay in filing petition to implead the proposed parties and prayed to dismiss the petition.

The trial Court, after considering the material on record, allowed the petition permitting the petitioner to implead the proposed parties as the defendants.

The said order is now challenged on various grounds more particularly on the ground that without notice to the proposed parties, the petition cannot be allowed.

Learned counsel for the revision petitioners reiterated the same ground during argument.

It is evident from the record that no notice was served on the proposed respondents and the petition was filed during pendency of the suit, after raising an objection about non-joinder of proper and necessary parties *i.e.* legal-heirs of the deceased Venkatesham, at a belated stage even without arraying the proposed parties in the petition as the respondents. There is substance in the argument advanced by learned counsel as the application was allowed even without notice to the proposed parties.

When a third party is required to be impleaded by filing a petition

under Order I Rule 10 of C.P.C., the normal procedure is the proposed parties have to be arrayed as the respondents and notice is required to be served on them. Without arraying, serving notice and inviting objections, such petition cannot be allowed. Therefore, this is an irregularity committed by the trial Court which can be cured. Though the respondents before the trial Court raised a specific contention, the same was not answered. Therefore, the matter is remanded directing the trial Court to direct the petitioner to array the proposed parties, serve notice and thereafter decide the petition in accordance with law.

With the above direction, the revision petition is allowed setting aside the order dated 17-02-2016 passed in I.A.No. 282 of 2015 in O.S.No. 144 of 2013 on the file of the Court of Senior Civil Judge at Kamareddy. Both parties are directed to appear before the trial Court on or before 18-07-2016.

Pending miscellaneous petitions in this revision, if any, shall stand closed in consequence. No order as to costs.

Date: 22-04-2016.

MURTHY, J.

JSK

M.SATYANARAYANA