

HON'BLE Dr. JUSTICE B.SIVA SANKARA RAO

C.R.P. No.4406 OF 2016

ORDER:

Heard learned counsel for the revision petitioners and learned counsel for respondents. Perused the material on record.

2) The plaintiffs are the revision petitioners being the unsuccessful petitioners in I.A. No.145 of 2016 by the impugned order of the Junior Civil Judge, Kodad dated 16.08.2016 in the pending suit for bare injunction in O.S. No.110 of 2012. Originally, the suit was maintained against three defendants including 3rd defendant local municipality and the defendants 1 and 2, who are none other than parents of plaintiffs.

3) The claim of the plaintiffs is that by virtue of the alleged family arrangement, they got right from the parents i.e., defendants 1 and 2. The proposed defendants 4 to 7 are concerned, defendant No.6 is Village Revenue Officer, defendant No.7 is Tahsildar. The lower Court is right in dismissing the application for impleadment of respondents 6 and 7 saying there is no notice as required under Section 80 C.P.C and there is no basis to implead them either they are not necessary or proper parties, to that extent holds good.

4) However, so far as respondents 4 and 5 proposed to be impleaded as defendants 4 and 5 are concerned, undisputedly the respondents 4 and 5 purchased, *pendente liti*, the property from the defendants 1 and 2 and thereby, the defendants 4 and 5 are claiming only through defendants 1 and 2 for the suit property which the plaintiffs claim by virtue of the alleged family arrangement. Even to defend the suit claim, if at all defendants 1

and 2 therefrom old age or otherwise not able to pursue, the proposed defendants 4 & 5 are necessary or atleast proper parties to the lis.

5) Having regard to the above, though plaintiffs has no necessity to file such an application as Section 146 C.P.C and Section 52 of Transfer of Property Act, 1988 enables to claim even against the alienees, any rights pending suit from alienation, once sought for impleadment itself in the interest of proposed defendants 4 and 5 also to come on record, thereby this Court felt it just not only sitting in the revision but also by invoking Order I Rule 10 (2) C.P.C which enables the Court in any proceeding at any stage to implead any party by impleading revision respondents 4 and 5 only.

6) Accordingly, the revision is disposed of. However, it is made clear that the impleadment is without prejudice to the rights and contest of both parties in the suit lis and uninfluenced by any observation touching merits of the lis. No order as to costs.

7) Consequently, pending miscellaneous petitions, if any, shall stand dismissed.

Dr.JUSTICE B. SIVA SANKARA RAO

Dt.07.12.2016
knl