

THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CIVIL REVISION PETITION Nos.5923 and 6025 OF
2010

COMMON ORDER:

Heard the learned counsel for the petitioners and the learned counsel for the respondents.

2. Aggrieved by the Common Order dated 03.09.2010 passed in I.A.Nos. 10 of 2008 and 583 of 2010 in Original Suit No.1382 of 2005 on the file of the VII Additional Senior Civil Judge, Ranga Reddy District at L.B.Nagar, plaintiffs 1 and 3 filed the present revision under Article 227 of the Constitution of India.

3. The plaintiffs filed the above suit seeking partition of the property. Pending suit, the plaintiffs also filed Interlocutory Application Nos.10 of 2008 and 583 of 2010 to implead the proposed respondents-defendants, stating that they have purchased the suit schedule property and that they have got substantial interest over the same. Counters came to be filed opposing the same. After appreciating the material on record, the trial Court dismissed the said applications. Challenging the same, the present Civil Revision Petitions are filed.

4. The affidavits filed in support of the applications would show that the plaintiffs filed the suit against defendants 1 and 2 for partition. Pending the said suit, petitioners herein filed I.A.Nos.10 of 2008 and 583 of 2010 for impleading the proposed respondents-defendants on the ground that they are subsequent purchasers to the subject property. It is also to be noted that after filing of the suit, *status quo* order with regard to alienation of suit property was

granted by the trial Court in I.A.No.1938 of 2005.

5. As seen from the material on record, plaintiff No.1 was examined as PW.1 and some documents were also marked. During the cross-examination of PW.1, she is alleged to have come to know about the disposal of part of the suit land by her father in favour of M/s Jana Chaitanya Housing Private Limited, who is proposed defendant No.3 and also execution of Gift Deed in respect of part of the suit land in favour of one Smt Vinoda, who is proposed defendant No.4. It is said that defendants 1 and 2 have no independent right to sell or execute a gift deed in favour of proposed defendants. In order to avoid further complications, I.A.Nos.10 of 2008 and 583 of 2008 are came to be filed. Separate counters were filed opposing the averments made in the petitions. As stated earlier, after appreciating the rival contentions, trial Court dismissed both the applications by Common Order.

6. Learned counsel for the petitioners submits that since the proposed defendants are purchasers of the property, it would be appropriate to implead them as parties to the suit so as to avoid further complications.

7. Learned counsel for the respondents opposed the same contending that the present applications came to be filed by the plaintiffs at belated stage and as such, the order under challenge warrants no interference.

8. A perusal of the affidavits filed in support of the petitions, show that during the cross-examination of PW.1 it came to light about the sale made by defendant No.1 in favour of proposed defendant Nos.3 and 4. Since the suit relates to partition of the suit property; as the rights are not transferred in favour of the third

parties, and in view of the contention that defendant No.1 has no right to sell the property, for proper adjudication of the dispute, it would be appropriate to add defendants 3 and 4 are added as parties to the suit. In view of the above, the Common order under challenge is liable to be set aside.

9. Accordingly, both the Civil Revision Petitions are allowed setting aside the Common Order dated 03.09.2010 passed by the VII Additional Senior Civil Judge, Ranga Reddy District at L.B.Nagar in I.A.Nos.10 of 2008 and 583 of 2010 in O.S.No.1382 of 2005. Miscellaneous Petitions, if any, pending in these petitions shall stand closed.

JUSTICE C. PRAVEEN KUMAR

Date:18.03.2016

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