

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CIVIL REVISION PETITION No.3381 of 2016

ORDER:

This Civil Revision Petition, under Article 227 of the Constitution of India, is filed challenging the order dated 24.03.2016 passed in I.A.No.509 of 2014 in I.A.No.1247 of 2001 in O.S.No.1601 of 1983 by the II Senior Civil Judge, City Civil Court, Hyderabad.

2. The petitioner herein filed petition under Order I Rule 10 (2) read with Section 151 of the Code of Civil Procedure, 1908, to implead himself as a party to the suit, claiming himself to be the owner of the part of the property claimed in the suit for rendition of accounts and, therefore, he is proper and necessary party to the suit. It is also contended that no notice was sent to the respondent in pursuance of the directions issued by this Court in W.P.No.17791 of 2013 pertaining to Survey No.28, whereas, the petitioner is claiming property in Survey No.194/8/1 which is totally different from the subject matter of the property and, therefore, he is necessary party to the suit.

3. The fourth respondent filed counter denying the claim of the petitioner on various grounds, mainly contending that an Advocate Commissioner was appointed pursuant to the final decree proceedings in I.A.No.494 of 2014 and the property was demarcated on ground and that, therefore, there are no merits in this petition. The tenth respondent also filed counter denying the ownership of the petitioner while reiterating the contentions raised

by the 4th respondent in his counter and prayed for dismissal of the petition.

4. Admittedly, the suit is filed for rendition of accounts by one of the partners in the partnership firm and the trial Court passed a preliminary decree directing the defendants in the suit to render true and correct account and an Advocate Commissioner was appointed to settle the account and to decide the actual amount due to the respondents. One of the items included in the schedule is the land in survey No.28/1, 28/2 and 28/3. The learned counsel for revision petitioner contended that no land is available on ground pertaining to survey No.28/3, but he is claiming right in land in survey No.194/8/1, which is totally different land. It is also contended that taking advantage of the decree, the respondents intend to interfere with revision petitioner's peaceful possession and enjoyment of the land in survey No.194/8/1.

5. The petitioner is neither the co-owner nor a co-sharer or partner of the firm and is no way responsible to render the account of the income from the properties shown in the schedule. He is a third party and is totally unconnected with the firm. If the apprehension of the petitioner is true, the remedy available to him is somewhere else and his right cannot be decided in a suit filed for rendition of true and correct account of partnership business by the partners to the partnership firm. Therefore, the petitioner is neither proper party nor necessary party for effective or complete adjudication of the dispute regarding rendition of true and correct account of the firm by its managing partner to other partners.

However, the revision petitioner is entitled to protect his possession, if he is really in possession of any property and apprehending interference by the respondents, in separate proceedings. Hence, the revision petitioner is given liberty to redress his grievance in appropriate forum, independently.

6. With the above observations, the Civil Revision Petition is dismissed. There shall be no order as to costs. Miscellaneous petitions, if any, pending in this revision, shall stand dismissed.

14th September, 2016.
Bvv

M. SATYANARAYANA MURTHY, J

