

HON'BLE SRI JUSTICE CHALLA KODANDA RAM

CIVIL REVISION PETITION No. 6413 of 2016

ORDER:

This civil revision petition is filed questioning the order dated 07.11.2016 passed by the Principal Junior Civil Judge, Sullurpeta, in I.A.No.337 of 2016 in O.S.No.39 of 2009.

2. It is the case of the petitioners/defendants that the 4th petitioner herein has been impleaded as the 4th defendant in the suit. She has purchased the schedule property from the 3rd defendant, who is an agreement of sale holder from the mother of the plaintiffs. The respondents/plaintiffs fraudulently got a gift settlement deed executed by their mother in their favour in the year 2007 to defeat the rights of the 3rd defendant. Inasmuch as the 4th defendant is the one who gets affected in view of the alleged gift settlement deed, the defendants filed two applications, one for amendment of the written statement filed in 2013 and the relief of counter claim of specific performance of agreement of sale, and another for impleadment of the mother of the plaintiffs as party defendant. Both the applications were dismissed. Aggrieved by the dismissal of their application for amendment of the written statement, the defendants preferred the present civil revision petition.

3. Learned counsel for the petitioners submits that the Court below grossly erred in not considering the amendment application of the petitioners merely on the ground that the same was filed at a belated stage. He further submits that if the amendment petition is not allowed, the petitioners would suffer irreparable loss and they would become remediless.

4. The suit filed by the plaintiffs is for injunction on the strength of being owners of the schedule property having acquired rights over the schedule property through a gift settlement deed executed by their mother. But, the 4th defendant claim right over the schedule property through the 3rd defendant, who is an agreement of sale holder from the mother of the plaintiffs. As can be seen from the record, it is clear that the 4th defendant came on record in the year 2012 and filed a written statement in the year 2013. Therefore, in the year 2013 itself the petitioners could have filed the present application for amendment of the written statement, but they did not do so. Except trying to create a web of confusion in the entire episode and as rightly stated by the Court below that the application came to be filed at the stage of defendants' evidence, there are no *bona fides* in filing such an application. Further, as rightly pointed out by the Court below, the application by way of a counter claim in an injunction suit is not maintainable. In those circumstances, I do not see any reason to

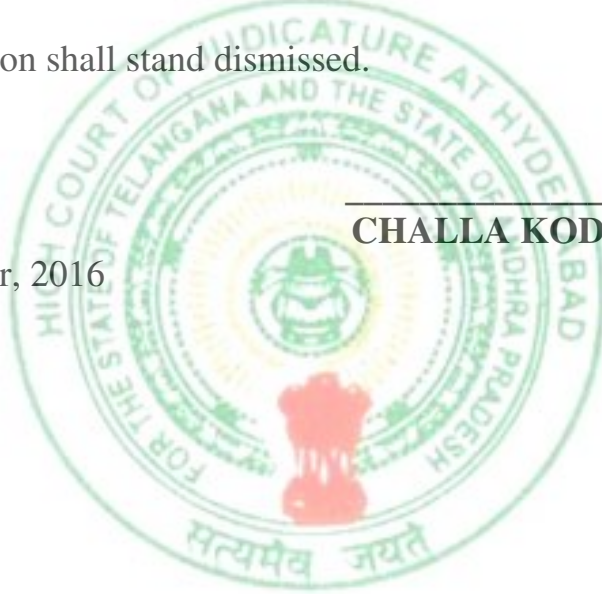
interfere with the order of the Court below. Accordingly, the Civil Revision Petition is dismissed.

5. At this stage, the learned counsel for the petitioners seeks an observation from this Court that they may be given liberty to work out their remedies, in accordance with law. It is needless to mention that no such observation as sought is needed, as they are always entitled to work out their remedies, in accordance with law.

Consequently, miscellaneous applications if any pending in the revision petition shall stand dismissed.

30th December, 2016
cbs

CHALLA KODANDA RAM, J



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