

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY
CIVIL REVISION PETITION No.4011 of 2016

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Date: 19.08.2016

Between:

Vaddadi Venkata Murali,
Visakhapatnam.

.. Petitioner

and

P. Ravi Kumar,
Visakhapatnam, and others.

.. Respondents

Counsel for the Petitioner: Sri Kowturu Pavan Kumar

Counsel for respondents: --

ORDER:

This revision petition arises out of order dated 26.03.2016 in I.A.No.1270 of 2015 in O.S.No.193 of 2011 on the file of the II Additional District Judge, Visakhapatnam.

Heard Mr. Kowturu Pavan Kumar, learned counsel appearing for the petitioner and perused the record.

The petitioner is a third party to O.S.No.193 of 2011 filed by respondent Nos.1 and 2 for declaration of title in respect of the suit schedule property against respondent Nos.3 and 4.

It is the pleaded case of the petitioner that he has purchased the plaint schedule property from one Baby Rani, her son and Siruvuri Naga Appala Satyanarayana Raju for a valuable consideration of Rs.2,10,00,000/-. He has further averred that after the said property was purchased by him, he came to know that respondent Nos.1 and 2 have set up a Will alleged to have been executed by one Pannala Venkata Subba Rao and filed the aforementioned suit to make unjust enrichment. He has therefore filed I.A.No.1270 of 2015 under Order I Rule 10 C.P.C for his impleadment. The lower Court dismissed the said I.A on the reasoning that the suit for declaration was one in *personam* and that the petitioner being a third party to the suit, the decree, if any, passed therein does not bind him and that therefore the petitioner is neither a proper nor a necessary party to the suit proceedings.

In my opinion, an application filed under Order I Rule 10 C.P.C for impleadment cannot be ordered for the mere asking. Unless the Court is satisfied that the person is either necessary or proper party for proper and effectual adjudication of the suit, he is not entitled to be impleaded in the suit. As rightly observed by the lower Court, even if the property claimed by the petitioner is subject matter of the suit, the judgment therein would not operate in *rem*, but it operates only in *personam*.

Accordingly, none of the rights of the petitioner get affected by

the decree, if any, passed in the suit. Notwithstanding such a decree, the petitioner is entitled to protect his rights by availing appropriate legal remedies, if the decree holder or any person claiming under him seeks to interfere with his rights in the guise of such a decree.

In this view of the matter, I do not find any merit in this Civil Revision Petition and same is accordingly dismissed, subject to the above observations.

As a sequel, CRPMP.No.5194 of 2016, filed by the petitioner for interim relief stands disposed of as infructuous.

C.V.NAGARJUNA REDDY, J

Date: 19.08.2016
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