

THE HON'BLE SRI JUSTICE M. SEETHARAMA MURTI

CIVIL REVISION PETITION No.5705 of 2015

ORDER:

The unsuccessful petitioners/plaintiffs filed this Civil Revision Petition, under Article 227 of the Constitution of India, assailing the order dated 12.11.2015 of the learned Principal Senior Civil Judge, Tenali, passed in I.A.No.413 of 2015 in O.S.No.165 of 2008 filed under Order I Rule 10 of the Code of Civil Procedure, 1908, requesting for permission to add the proposed defendants 11 to 15 as party defendants to the suit and to amend the plaint schedule by substituting the item No.2 of the original schedule with proposed item No.5 mentioned in the petition list and to consequentially amend the plaint.

2. I have heard the submissions of Sri P.S.P.Suresh Kumar, the learned counsel for the petitioners/plaintiffs ('plaintiffs', for brevity) and Mrs. N.Revathi, the learned counsel for contesting respondent/defendant No.15. The other respondents, though served with notices, none appears for them. I have perused the material record.

3. At the hearing, the learned counsel for the petitioners/plaintiffs would submit as follows: "The suit is brought by the wife and children of the deceased husband of the 1st plaintiff against the parents of the deceased and his brother besides other third party defendants. While the suit is pending, the subject interlocutory application was filed for addition of the adoptive parents, viz., the proposed defendants 11 and 12, and the purchasers of the suit schedule property from the third party defendants as party defendants 13 to 15. In the same application filed seeking addition of

the said parties, the plaintiffs have also sought not only consequential amendments but also amendment of the schedule of the plaint for substituting item No.2 with the proposed item No.5 in the proposed schedule as mentioned in the petition list. In the order impugned in this revision, the trial Court adverted only to the aspect as to whether or not the adoptive parents of the deceased husband of the first plaintiff shall be added as a party defendants to the suit, but did not advert to the other amendments, namely, addition of the purchasers of the suit schedule property, i.e., the proposed defendants 13 to 15 as parties to the suit and consequential amendment of the plaint and that therefore, the impugned order is unsustainable and is liable to be set aside.”

4. However, the learned counsel fairly stated that as the subject matter of the suit is the property of the natural family of the deceased husband of the first plaintiff, the plaintiffs now do not press for addition of the adoptive parents of the deceased husband of the first plaintiff as defendants 11 and 12. He further submitted that the order impugned in this revision may therefore be set aside and the interlocutory application may be remitted to the trial Court for fresh disposal in accordance with law and for passing a detailed order on all the aspects.

5. On the other hand, the learned counsel for the contesting respondent/defendant No.15 would submit as follows: “In the counter, the relationship is denied. The subject matter of the suit is the property of the natural family of the deceased husband of the first plaintiff and the defendants 1 to 3. The adoptive parents of the deceased husband of the first plaintiff are not necessary parties to the suit. It is true that the trial Court did not advert to all the

aspects in the application, namely, addition of other proposed parties as party defendants and amendment of the plaint that was sought for by the plaintiffs.”

6. Having gone through the order of the Court below and having regard to the submissions, particularly the submission of the learned counsel for the plaintiffs that at present the plaintiffs are not pressing for the relief insofar as the addition of the adoptive parents of the deceased husband of the first plaintiff as party defendants to the suit, this Court is satisfied that this revision can be disposed of with appropriate directions.

7. In the result, the Civil Revision Petition is allowed and the order impugned in this revision is set aside. Accordingly, I.A.No.413 of 2015 in O.S.No.165 of 2008 on the file of the Court of the learned Principal Senior Civil Judge, Tenali, is remitted to the said Court for disposal afresh in strict accordance with the procedure established by law and for passing a speaking order after adverting to all the aspects necessary to be considered, nevertheless, after taking note of the fact that the plaintiffs are not pressing the said application insofar as addition of the adoptive parents of the deceased husband of the first plaintiff i.e., the proposed defendants 11 and 12 as party defendants to the suit.

There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this Civil Revision Petition, shall stand closed.

30th November, 2016
Bvv

M. Seetharama Murthi, J