

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

CIVIL REVISION PETITION NO.1787 OF 2016

DATED:13-04-2016

Between:

A. Koteswara Rao ... Petitioner

And

Kancherla Subba Rao
and others ... Respondents

COUNSEL FOR THE PETITIONER: Mr. T. Ramakoteswara Rao

COUNSEL FOR THE RESPONDENTS: -

THE COURT MADE THE FOLLOWING:

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ORDER:

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This civil revision petition is filed against order dt.4.2.2016 in I.A. No.999 of 2015 in O.S. No.136 of 2011 on the file of the Principal Junior Civil Judge, Chilakaluripet.

Respondent Nos.3 to 5 filed the above-mentioned suit against the petitioner and respondent No.6 for declaration of title over the suit schedule property and consequential declaration that the registered sale deed document No.2473/2007 is null and void. Respondent Nos.1 and 2 have filed I.A. No.999 of 2015 under Order I Rule 10 of the Code of Civil Procedure, 1908 (CPC), for their impleadment on the ground that they are the legal heirs of Anjamma, who succeeded to the plaint schedule property from her father, Pitchaiah, and that being the legal heirs of said Anjamma, they are necessary and proper parties to the suit. The petitioner filed a counter affidavit opposing the said application by pleading that though the proposed applicants are also legal heirs of the deceased Anjamma, they were deliberately left out of the said proceedings by the plaintiffs and that only to cover the lacunae in the case of the plaintiffs, the proposed applicants are sought to be added as plaintiffs to the suit. The lower Court while allowing the application observed that there is no dispute as to the relationship of the proposed parties with Anjamma, that since the suit is filed for declaration of title, their presence is necessary to determine the lis between the parties and that no prejudice will be caused to the interest of the petitioner, who is only a defendant.

Learned counsel for the petitioner placed reliance on Order I Rule 10(5) of CPC and submitted that subject to the provisions of the Indian Limitation Act, 1877, Section 22, the proceedings as against any person added as defendant shall be deemed to have begun only

on the service of the summons. In my opinion, in the context of the petitioner, the said provision has no application, as, if at all the same will be available as a defence to the parties who are impleaded against their will. As rightly pointed out by the lower Court, the petitioner has not pleaded any prejudice except stating that only to cover the lacunae in the case of the plaintiffs the proposed parties are sought to be added as plaintiffs. In my opinion, the petitioner, being only a defendant, cannot have any objection for the proposed parties, who are admittedly some of the legal heirs of the original owner, Anjamma, being brought on record.

In the above view of the matter, I do not find any merit in this civil revision petition and the same is accordingly dismissed.

As a sequel to dismissal of the civil revision petition, C.R.P.M.P. No.2260 of 2016 shall stand disposed of as infructuous.

C.V. NAGARJUNA REDDY, J

13-04-2016

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