

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

Civil Revision Petition No. 382 of 2016

Order:

The petitioner herein is the plaintiff in OS No.43 of 2011 on the file of the Senior Civil Judge, Parchur. The suit was filed for recovery of vacant possession of Ac.0-60 cents of Plot 'C' shown in the plaint schedule. The proposed sixth defendant is shown as the owner of the land on eastern side. The petitioner/plaintiff filed IA No.591 of 2015 seeking permission to add the proposed party as sixth defendant in the suit with the following averments.

“The petitioner is the plaintiff and she filed the suit against the defendants to recover the suit schedule land to an extent of Ac.0-60 cents shown as plot 'C' in the plaint plan. The defendants filed written statement with false allegations that they are contesting that an extent of Ac.4-10 cents purchased by Nuthi Venkateswarlu from Court auction, out of which the petitioner purchased Ac.2-10 cents and the remaining Ac.2-10 cents succeeded by the defendants 1 to 4 and later defendants 2 to 4 sold an extent of Ac.2-10 cents to the 5th defendant etc., and that Pidikiti Brahmaiah who is the proposed party and who is eastern side boundary owner of the suit schedule (Plot 'B' in plaint plan) has no land in suit schedule survey number and the claim of the proposed party was defeated by the Court in earlier proceedings etc. In view of the said pleadings, Plot 'B' of the plaint schedule being in possession of proposed party, his presence is necessary to give proper adjudication.”

2. A counter affidavit was filed by the defendants 2 to 4 with the following averments.

“The contesting respondents filed counter that even as per the petitioner, Plot 'B' was shown as it belongs to Brahmaiah. In fact, the said Brahmaiah has no land in the vicinity of the schedule. The son of Brahmaiah was examined as PW.2 on behalf of the petitioner. The petitioner has no right over the said land. It is exclusively

belongs to the defendants. When the matter is coming for cross-examination of DW.1, the present false petition is filed to stall the proceedings. Hence prayed the Court to dismiss the petition.”

3. The trial Court dismissed the said application, by an order dated 08.10.2015, holding as follows.

“The plaintiff herself claiming recovery of possession of plaint ‘C’ schedule property. She is not claiming any right over plaint ‘B’ schedule property. In the plaint plan, to the plaint ‘B’ schedule one Brahmaiah was shown as owner. Once the plaintiff is not claiming any right over plaint ‘B’ schedule, the proposed Brahmaiah is not at all a necessary party. The defendants can take any contra contentions in the written statement. Once the plaintiff in the affidavit itself denying the allegations in respect of Brahmaiah, how could the proposed party is necessary to the proceedings. By viewing in any angle, the proposed party is not at all necessary for proper adjudication in the suit. Moreover, when the matter is coming for cross-examination of DW.1, the present petition is filed at a belated stage. Therefore, on this ground also, the petition has to be dismissed. The point is decided against the plaintiff/petitioner.”

4. I have carefully perused the averments made in the plaint and they did not disclose any cause of action against the proposed defendant. Though the proposed defendant did not raise any objection for his impleadment, this Court finds that the order passed by the trial Court as above is correct in law and does not warrant any interference.

5. The Civil Revision Petition is, accordingly, dismissed at the stage of admission itself. There shall be no order as to costs.

6. As a sequel thereto, the miscellaneous applications, if any, pending in this Civil Revision Petition shall stand closed.

A.
Date: 01.07.2016
Nsr

RAMALINGESWARA RAO, J