

THE HON'BLE SRI JUSTICE SANJAY KUMAR

CIVIL REVISION PETITION NO.1307 OF 2016

ORDER

This civil revision petition under Article 227 of the Constitution arises out of the order dated 22.01.2016 passed by the learned Principal Junior Civil Judge, Ranga Reddy District at L.B.Nagar, Hyderabad, in I.A.No.870 of 2015 in I.A.No.527 of 2015 in O.S.No.387 of 2015. The petitioner, a third party to the suit proceedings, filed the subject I.A. under Order 1 Rule 10 CPC seeking to be impleaded as the second defendant in the suit. By the order under revision, the trial Court disallowed his plea.

Despite service of notice, neither the 1st respondent-plaintiff nor the Greater Hyderabad Municipal Corporation (GHMC), the 2nd respondent-defendant, chose to enter appearance before this Court.

The suit, O.S.No.387 of 2015, was filed by the 1st respondent-plaintiff for a perpetual injunction restraining the GHMC from interfering with her possession and enjoyment over the suit property.

In the affidavit filed in support of the subject IA, the petitioner claimed that he had an interest in the suit property and that he had made complaints to the GHMC which resulted in the present litigation. He therefore sought to be brought on record in the suit as the 2nd defendant.

The trial Court, however, was of the opinion that the GHMC was the competent authority to bring all the facts before the Court for resolving the issue and that the petitioner could get no relief in the suit. The trial Court further opined that if his rights were affected, the petitioner had to file a separate suit seeking the proper remedy and complex issues, pertaining to the title of the 1st respondent-plaintiff as opposed to the petitioner, could not be gone into in the said suit. The trial Court further observed that the presence of the petitioner was not necessary to resolve the suit claim.

It is however relevant to note that in its counter to I.A.No.527 of 2015 filed in the suit by the 1st respondent-plaintiff, the GHMC specifically referred to the fact that it had received complaints from the petitioner and only upon such complaints, it had caused an inspection and issued show-cause notice dated 03.07.2015 to the 1st respondent-plaintiff under Sections 452 and 461 of the Greater Hyderabad Municipal Corporation Act, 1955 (*hereinafter*, 'the Act of 1955'). As the 1st respondent-plaintiff failed to reply thereto, the GHMC stated that it issued final notice dated 31.08.2015 under Section 636 of the Act of 1955.

It is therefore clear from the stand taken by the GHMC that it had interfered with the 1st respondent-plaintiff's construction activity only because of the complaints made by the petitioner. The petitioner may not get any relief in the subject suit, but whether he could assist the Court in examining the claim of the 1st respondent-plaintiff was the crucial issue. The trial Court did not take note of this latter aspect and disallowed his implead application on the ground that he would have to file an independent suit to work out his rights. Once the role played by the petitioner was admitted by the GHMC and his complaints were the basis for interference by the GHMC, he was a proper and necessary party to the suit proceedings.

The order under revision is accordingly set aside and I.A.No.870 of 2015 filed by the petitioner herein in I.A.No.527 of 2015 in O.S.No.387 of 2015 is allowed. The trial Court shall implead the petitioner herein as the 2nd defendant in the suit and proceed with the matter in accordance with law expeditiously.

The civil revision petition is allowed. Pending miscellaneous petitions shall stand closed in the light of this final order. No order as to costs.

SANJAY KUMAR, J

15th JULY, 2016
PGS