

THE HON'BLE SRI JUSTICE A. RAJASHEKER REDDY

CIVIL REVISION PETITION No.1757 OF 2011

ORDER:

This revision petition, under Article 227 of the Constitution of India, is filed against the order, dated 18.04.2011, passed in I.A.No.231 of 2011 in O.S.No.290 of 2007 on the file of Additional Senior Civil Judge, Tenali, wherein, the Court below dismissed the application filed by the revision petitioners for impleading respondent No.9 as defendant No.9 in the aforesaid Suit filed by them for partition of the suit schedule property.

2. Since the learned counsel for petitioners on record passed away, notice was issued to the petitioners. Though notice is served on the petitioners, there is no appearance on behalf of them.

3. Heard learned counsel for respondent Nos.1, 3, 4 and 8.

4. The Court below, by impugned order, dated 18.04.2011, dismissed the implead petition filed by the petitioners on the grounds that though earlier the plaint was amended thrice and petitioner No.2 – plaintiff No.2 and respondent Nos.7 and 8 – defendant Nos.7 and 8 were impleaded, the petitioners have not chosen to implead respondent No.9 and include Ac.0-56 cents of land, said to have been purchased by respondent No.9,

as one of the items of suit schedule property, in spite of respondent No.3 – defendant No.3 disclosing about the said transaction long back, and that after completion of evidence on both sides, when the Suit was posted for arguments, the present application was filed. The Court below also observed that the petitioners are not diligent in seeking amendment and as such, they failed to satisfy that the proposed amendment comes under the proviso to Order VI Rule 17 C.P.C., so as to allow the proposed amendment to implead respondent No.9 as defendant No.9. It has also observed that without impleading respondent No.9, Suit can be decided.

5. A perusal of the impugned order goes to show that though the petitioners sought amendment of the plaint on more than one occasion and impleaded petitioner No.2 and respondent Nos.7 and 8, they did not choose to implead respondent No.9 and include the proposed Ac.0-56 cents of land as one of the items in the suit schedule property at the relevant point of time. Hence, the Court below has rightly dismissed the application taking into account the conduct of the petitioners. In view of the same, I do not find any infirmity in the impugned order passed by the Court below, so as to interfere with the same in this revision petition filed under Article 227 of the Constitution of India.

6. Accordingly, the revision petition is dismissed.

Miscellaneous Petitions, if any, pending in this revision petition, shall stand closed. No costs.

A. RAJASHEKER

REDDY, J
February 22, 2016
MD