

HON'BLE SRI JUSTICE C.PRAVEEN KUMAR

CIVIL REVISION PETITION No. 1331 of 2016

ORDER:

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Assailing the order dated 22.06.2015 passed in I.A. No.787 of 2015 in O.P. No.303 of 2013 on the file of the Principal District Judge, Karimnagar, wherein a petition filed under Order I Rule 10(2) of the Code of Civil Procedure (for short "the C.P.C.") was allowed, the present Revision is filed.

The facts in issue are as under :

The petitioners herein filed O.P. No.303 of 2013 under Section 23 of the A.P. Societies Registration Act, 2001 seeking to declare the demand of the respondents 1 to 6 therein to handover the management of the Padmashali Kalyana Bhavana Sangham by the 2nd petitioner, as illegal and to declare that except petitioner No.1-Society none others have any right, claim or interest over the said Sangham. While things stood thus, a third party filed I.A. No.787 of 2015 in O.P. No.303 of 2013 under Order I Rule 10(2) of the C.P.C., to implead him as respondent No.7 for protection of his rights over the property and for effective adjudication of the matter. According to him, at the time of construction of the Kalyana Mandapam in Sircilla, the then president of Padmashalil Sangam, Sircilla after discussing the matter in the Executive committee offered lease agreement for a period of 10 years in favour of the first respondent herein i.e., the implead petitioner for its future lease and maintenance and also agreed to execute a registered sale deed in favour of the implead petitioner. It is said that the implead petitioner paid Rs.2,55,000/- as advance. It is said that the Padmashali Sangham postponed the matter and after completion of the construction in the month of February 2012, the said Kalyana Mandapam was handedover to the implead petitioner as per the lease agreement dated 18.02.2008. It is alleged that the

Padmashali Sangham, Sircilla with an unlawful motive to get higher rate of rents motivated the second respondent herein and one Balayya to occupy the said Kalyana Mandapam and to dispossess the implead petitioner. It is said that the action of Balayya and the second respondent herein by name Lakshminarayana lead to filing of O.S. No.4 of 2013 by the first respondent herein for specific performance of agreement of lease and for injunction. It is further alleged that the Padmashali Sangham got removed the name of the old society and brought into existence Padmasali Kalyana Bhavana Sangham on paper which was not at all in existence at any point of time. In view of the above, he submits that he is a necessary party to contest the matter.

A counter came to be filed denying the averments made in the affidavit filed in support of the petition. It is further stated that the petitioner has no right over the schedule property and he is a stranger to the proceedings. It is contended that if the implead petitioner has any right he has to first succeed in O.S. No.4 of 2013 filed by him and then seek appropriate relief by initiating appropriate proceedings. After hearing both sides, the trial court allowed the I.A. Challenging the same, the present Revision is filed.

The learned counsel for the petitioners mainly submits that the first respondent has nothing to do with the Padmashali Kalyana Bhavana Sangham, which is having a different registered number from the Society which is claimed by the first respondent. He further submits that the claim of the first respondent against Padmashali Sangham, Sircilla for specific performance of agreement dated 08.02.2008, is noway concerned to the petitioner-Sangham, which is having Regd. No.532/1986. In view of the above, he submits that the order under challenge warrants interference.

In spite of service of notice on the respondents, there is no representation on their behalf.

As seen from the record, the implead petitioner who is the first respondent herein filed O.S. No.4 of 2013 on the file of the Senior civil Judge at Sircilla directing the defendant No.1 therein i.e., Padmashali Sangham, Sircilla, which is represented by one Kattekola Laxmi Narayana to execute registered sale deed in respect of the plaint schedule premises in favour of the plaintiff for a period of 10 years with effect from February 2012 in terms of agreement dated 08.02.2008. In the said suit written statements are filed by all the defendants therein, which include one Gaddam Vittal, who is now representing the first petitioner herein and also representing himself as second petitioner. In the said suit, the implead petitioner claims himself to be the person in whose favour the lease was granted and also the person who was alleged to have given Rs.2,55,000/- for construction of the said Padmashali Kalyana Mandapam.

Admittedly, there is only one Padmashali Kalyana Mandapam in Sircilla. Even assuming for the sake of argument that there are two different Sanghams, but the implead petitioner as the well as the petitioners herein are fighting for one Mandapam. In the evidence which has been adduced by the petitioner in O.P. No.303 of 2013, it has been categorically admitted by P.W.1 (Gaddam Vittal) to the effect that the plaintiff in O.S. No.4 of 2013 claim that Kalyana Bhavanam is a property of Padmashali Sangham and was let out to him (Madhusudhan-implead petitioner) by Padmashali Sangham and that himself as second defendant and Sircilla Balaiah as third defendant are no way connected with the said Kalyana Bhavanam. He also admits that what is all mentioned in the pleadings of the petition in O.P. No.303 of 2013 as to the acquisition of open land and raising of fund and construction of Kalyana Bhavanam do not reflect in the pleadings in written statement of D-2 and D-3 in O.S. No.4 of 2013. Similarly P.W.2 also admits as under :

“It is true that one Pathipaka Madhusudhan filed O.S. No.4 of 2013 on the file of Senior Civil Judge, Sircilla and in that suit I was shown as second

defendant. I filed my written statement (Ex.B-2) in that suit. It is true what is all mentioned in my chief affidavit about the gift deed executed in favour of Sircilla Padmashali Sangha Kalyana Bhavanam at the instance of Vemula Narsaiah was not mentioned in my written statement in O.S. No.4 of 2013. It is true that there is no mention in my written statement in O.S. No.4 of 2013 that Vemula Narsaiah mobilized the necessary funds for construction of Padmashali Kalyana Bhavanam. It is not true to suggest that there is only one Padmashali Sangham in Sircilla town and that the Padmashali Kalyana Bhavana Sangham is also the property of Padmashali Sangham, Sircilla and the petitioner society has no right to deal with Kalyana Bhavanam.”

From the admissions made by P.Ws.1, 2 and also to a certain extent by P.W.3, it appears that the claim of the implead petitioner with regard to his right over the said property cannot be brushed aside lightly. There appears to be some *prima-facie* material, which requires adjudication. In view of the above, the order under challenge warrants no interference.

Accordingly, the Civil Revision Petition is dismissed. There shall be no order as to costs. As a sequel to it, miscellaneous petitions pending if any, in this Revision shall stand closed.

C.PRAVEEN KUMAR,J

Dt:18.04.2016

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