

HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

C.R.P.No.4899 of 2016

Date:14.10.2016

Between:

Animireddy Venkata Ramana,
S/o Ramunaidu and another.

..... Petitioners

And:

Siripurapu Mutyalamma,
W/o Late Suryanarayana

....Respondent

Counsel for the petitioners: Mr. K.Srinivasula Reddy

Counsel for the respondent: None appeared



The Court made the following:

ORDER.

This Civil Revision Petition arises out of order, dated 11.7.2016, in I.A.No.99 of 2015 in O.S.No.1704 of 2014 on the file of the learned II Additional Senior Civil Judge, Visakhapatnam.

The respondent initially filed the afore-mentioned suit for mandatory injunction directing the petitioners to remove the constructions made in the suit schedule property and in the event, the petitioners do not comply with the mandatory injunction, the respondent may be permitted to remove the same at the cost of the former. The respondent also sought for permanent prohibitory injunction against the petitioners from making constructions over the suit schedule property.

After the written statement was filed by the petitioners, the respondent filed the afore-mentioned I.A. for amendment of the plaint in order to claim the reliefs of declaration of her title, to declare the registered cancellation deed, dated 19.2.2004, as null and void and also for a decree for recovery of possession. In support of this application, the respondent has filed the affidavit, wherein it is *inter alia* stated that in I.A.No.636 of 2014 filed by her for temporary injunction, the petitioners filed counter-affidavit, wherein while admitting the execution of the registered sale deed in her favour by them, they have, however, pleaded that they have executed the cancellation deed and

registered the same. The respondent has, accordingly, pleaded that unilateral cancellation of sale deed executed by the petitioners is not sustainable in law and that, having regard to the afore-mentioned stand taken by the petitioners in the counter-affidavit, it had become necessary for her to seek amendment of the plaint by adding the necessary pleadings and also claiming the relief of declaration of title and also to declare the registered cancellation deed as null and void. Having regard to the afore-mentioned averments made by the respondent, the lower Court has allowed the I.A. filed by her.

The trial in the suit has not been commenced. From the facts pleaded by the respondent, it is evident that as she was holding a registered sale deed in her favour, she has not felt the necessity of seeking the relief of declaration of title. However, when it came to her knowledge through the counter-affidavit filed by the petitioners in the interlocutory application that they have cancelled the sale deed executed by them in her favour through a registered cancellation deed, she has felt the necessity of claiming appropriate reliefs by way of amendment of the plaint. The reliefs claimed by the respondent are permissible in law and therefore, the lower Court was justified in allowing the application filed by her.

In the premises as above, I do not find any jurisdictional error in the order passed by the lower Court and the Civil Revision Petition is, accordingly, dismissed.

As a sequel to dismissal of the Civil Revision Petition, CRPMP.No.6370 of 2016 filed by the petitioners for interim relief is dismissed as infructuous.

JUSTICE C.V.NAGARJUNA REDDY

14th October 2016

DR

