

HON'BLE SRI JUSTICE G. SHYAM PRASAD

C.R.P.Nos.5165 And 5395 of 2016

COMMON ORDER:

CRP.No.5165 of 2016

The revision petitioner is third party to the suit O.S.No.992 of 2006 on the file of Principal Junior Civil Judge, Vizianagaram. He filed I.A.No.149 of 2016 to implead him as 5th defendant in the suit and therefore, he is proposed 5th defendant sought to be impleaded in the suit.

The 1st respondent is the plaintiff Gadula Ramalakshmi originally filed suit for permanent injunction against defendants 1 to 4. The defendants 1 to 4 are arrayed as respondents 2 to 5 in the Interlocutory application. As the 2nd respondent Putrevu Shankaramma died, her LRs respondents 3 to 5 were brought on record in the suit. The 1st respondent filed counter in I.A.No.149 of 2016 alleging that the revision petitioner in the above interlocutory application has deposed before the trial Court as PW.3 in O.S.No.992 of 2006. He cannot be brought on record as 5th defendant in the same suit.

Learned counsel for the revision petitioner submits that revision petitioner filed chief affidavit as PW.3 in the suit O.S.No.992 of 2006, but he does not know the contents of affidavit filed by him through his counsel.

Learned counsel for the 1st respondent vehemently objected for the said fact.

No doubt, the revision petitioner had filed his chief affidavit as PW.3 in the suit. He had made certain averments in the affidavit, now he cannot deny the contents of affidavit and say that without his knowledge affidavit was prepared and filed in the Court. On this ground, the revision petitioner cannot be brought on record as 5th defendant in the suit. Since

the revision petitioner was brought on record as PW.3, now he cannot turn again to come on record as 5th defendant in the suit. The contention of revision petitioner is that the mother of the defendants and the plaintiff has executed two documents. One document is 'Hamipatram' executed in the year 2011 and another document is mortgage deed executed in the year 2012 and obtained loan by mortgaging the property and by delivering the possession to her. Admittedly, both documents are not registered documents.

It is pertinent to note that suit was filed in the year 2006, two documents were executed thereafter. One is after five years after filing of suit and other is after six years after filing of suit. The intention of the revision petitioner clearly shows that some how, he is trying to create documents for the purpose of suit and that is why, he brought into existence two documents i.e. 'Hamipatram' and mortgage deed, which are unregistered documents. Therefore, I do not see any valid ground to implead the revision petitioner as 5th defendant in the suit and to set aside the impugned order passed by the trial Court in dismissing the application filed by the revision petitioner to implead him as 5th defendant in the suit.

In the result, the Civil Revision Petition is dismissed. In consequence, miscellaneous petitions, if any, pending in this revision shall stand closed.

CRP.No.5395 of 2016:

Learned counsel for the petitioner submits that another CRP.No.5395 of 2016 has been filed aggrieved by the orders dated 19-09-2016 passed in I.A.No.150 of 2016 in O.S.No.992 of 2006 by the trial Court for receiving some documents sought to be marked on behalf of revision petitioner. Since the revision petitioner himself is not permitted to be added as 5th respondent in the suit, there is no need for considering this application for receiving the documents on his behalf.

Therefore, this revision petition is also consequently dismissed. In consequence, miscellaneous petitions, if any, pending in this revision shall stand closed.

G. SHYAM PRASAD, J

25-11-2016.
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