

THE HON'BLE SRI JUSTICE M.S.K.JAISWAL

CIVIL REVISION PETITION NO.36 OF 2016

ORDER:

This revision petition is filed under Article 227 of the Constitution of India questioning the correctness of the order dated 13.11.2015 passed in I.A.No.346 of 2015 in O.S.No.33 of 2007 on the file of the Junior Civil Judge, Cheepurupalli.

The petitioner-third party filed I.A.No.346 of 2015 under Order I Rule 8(v) and Rule 10 (iv) and Section 151 of the Code of Civil Procedure with the following prayer:

- (a) to add the following in the short cause title as Gudivada Thammi Naidu-6th defendant, GPA Holder;
- (b) to add in the long cause title the following Gudivada Thammi Naidu, S/o.Laxmu Naidu, Hindu, aged about 40 years, Cultivation, residing at Vedullavalasa Village, Garividi Mandal, Vizianagaram District;
- (c) to add the following para above the cause of action para as "The 6th defendant is the son of 1st defendant who is being suffered with hearing and other problems which are specifically mentioned in the Regd. GPA., executed by the 1st defendant in favour of 6th defendant. Due to that reason, the property dealt in the written statement along with other defendants interest has to be protected through 6th defendant/GPA Holder since the same property benefits are being enjoyed by the family members of the 1st defendant including 6th defendant/GPA Holder. The 6th defendant/GPA holder know the suit property situation and its rights which belong to the defendants and other facts of the suit personally since the 6th defendant used to follow with his father to his cultivation and cultivation works. If the 6th defendant/Regd. GPA Holder is not added as party, the right of Principal Agent and as well as the right of 1st defendant's family members would be totally affected. As a General Power of Attorney Holder and as well as a joint family member, care taker of the 1st defendant, the 6th defendant/GPA Holder has interest in the suit property directly and indirectly. The 6th defendant/GPA Holder has to be added as necessary party in the above suit proceedings as 6th defendant to prosecute the above suit on behalf of his Principal who is his father i.e., 1st defendant; and

- (d) in the prayer para and other plaint portions wherever the word 1st defendant is there, in that place “General Power of Attorney Holder/6th defendant is being represented for the 1st defendant” has to be added.

The first respondent-plaintiff filed O.S.No.33 of 2007 for declaration. In the said suit, the third party/defendant was shown as defendant No.6. However, the sixth defendant filed the present application to add him as defendant. The said application was dismissed by the Court below.

Learned counsel for the petitioner submits that the father of the petitioner was shown as second defendant and as he is unable to prosecute the case, he executed the General Power of Attorney to the third party, who is his son.

But the third party, who is the son of the second defendant, is already shown as sixth defendant in the suit. Therefore, there is no need to add the petitioner as sixth defendant. The trial Court has rightly rejected the request of the petitioner. Hence, there are no merits in the revision.

Accordingly, the Civil Revision Petition is dismissed. There shall be no order as to costs. Miscellaneous petitions, if any, pending shall stand dismissed.

(M.S.K.JAISWAL, J)

1st April 2016

RRB