

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

CIVIL REVISION PETITION No.4449 of 2016

ORDER:

This Revision is filed challenging the order dt.02-06-2016 in I.A.No.93 of 2014 in O.S.No.48 of 2013 of the I Additional Principal Junior Civil Judge, Kovvur.

2. The petitioner herein is sole defendant in the above suit.
3. The said suit was filed by the deceased 1st respondent during her lifetime against the petitioner for cancellation of a registered sale deed dt.25-03-2004 obtained by petitioner from the 1st respondent on the ground that it is sham, nominal and void document and for a perpetual injunction restraining the petitioner from interfering with her peaceful possession and enjoyment of the plaint schedule property.
4. In the plaint, she admitted tat she had no children and she and her husband fostered the father of respondent Nos.2 to 5 and even settled the eastern 57 sq. yds of the plaint schedule property in 1994 on respondent Nos.3 to 5.
5. After the death of 1st respondent/plaintiff, respondent Nos.2 to 5 claimed to be her legal representatives and sought to come on record by filing I.A.No.93 of 2014. In the said application they specifically stated that 1st respondent died intestate on 11-12-2013 and they are her legal heirs. They stated that the husband of 2nd respondent by name

Satyanarayana, who is the son of the sole plaintiff, left the house long back and his whereabouts are not known and therefore they are necessary parties to the suit and to the application for temporary injunction.

6. The petitioner filed a counter opposing the said application stating that the deceased sole plaintiff had no legal issues and the proposed parties are not class-I heirs of the deceased plaintiff under Hindu Succession Act,1956. He contended that the deceased plaintiff had fostered Satyanarayana and therefore respondent Nos.2 to 5 are not the legal heirs of deceased plaintiff since the husband of 2nd respondent Satyanarayana himself has no right in the property. He further stated that petitioner is the nephew of the deceased plaintiff and he is the nearest legal heir.

7. By order dt.02-06-2016, the Court below allowed the said application. It held that in the very plaint, the deceased plaintiff had stated that portion of the property had been settled in favour of respondent Nos.3 to 5 with life interest to herself and therefore they are entitled to come on record.

8. Though learned counsel for petitioner sought to contend that the order passed by the Court below is incorrect and respondent Nos.2 to 5 cannot be brought on record as legal heirs of plaintiff, it is not disputed by the learned counsel for petitioner that in the plaint, the deceased 1st respondent/plaintiff had specifically stated that she settled in 1994 the eastern 57 sq. yds of site and a house portion by keeping

interest to herself and given vested remainder to them. In the light of that statement, it cannot be said that respondent Nos.2 to 5 have no interest in the subject matter of the suit. Therefore they are certainly entitled to come on record to protect their interests in the suit.

9. I, therefore, do not find any error of jurisdiction in the order passed by the Court below impleading respondent Nos.2 to 5 as defendants in the suit.

10. The Civil Revision Petition is accordingly dismissed at the stage of admission. No costs.

11. As a sequel, the miscellaneous petitions, if any pending, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 20-01-2017
Vsv/*

