

THE HON'BLE SRI JUSTICE U.DURGA PRASAD RAO
CIVIL REVISION PETITION No.4230 of 2017

ORDER:

This Civil Revision Petition is filed by the petitioners/plaintiffs aggrieved by the order, dated 24.07.2017, in I.A.No.198 of 2017 in O.S.No.62 of 2017 on the file of Junior Civil Judge, Rajampet, whereunder, the trial Court allowed the petition filed by the respondents/defendants under Order I Rule 10 CPC to add proposed defendant Nos.4 to 7 for proper adjudication of the suit.

2. The plaintiffs filed suit seeking perpetual injunction decree in respect of plaint schedule property covered by Survey No.981/1A, extent of one cent 782 Sq.Links in Rajampet Municipality.

3. The plaintiffs case is that they purchased the suit schedule property on 01.02.2017 from Siripireddy Ramachandra Reddy and Siripireddy Subba Reddy for a valuable consideration and they have been in enjoyment of the same; and that the defendants without any right or title intervening with the said property.

4. While denying the plaint averments, the contention of the respondents/defendants is that originally the Government of Andhra Pradesh by Gazette Notification No.43, dated 06.11.1975, assigned Ashur Khana with Door No.3/162 of vacant site an extent of Ac.0.16 cents, in the name of President, Jamia Mosque, Rajampet, for celebration of Moharrum festival since the celebrations have been conducted over there. Therefore, the suit property is an assigned property for the purpose of conducting

Moharam festival and other religious festivals. They contended that the plaintiffs or the predecessors have no right over the property and therefore, the plaintiffs are not entitled to injunction.

5. With the above said averments, the respondents/defendants filed I.A.No.198 of 2017 for adding the President of Jamia Mosque; Muthavalli of the said Mosque; Inspector of Wakf Board and the District Collector, Kadapa, as party defendants 4 to 7 for proper adjudication of the suit.

6. Plaintiffs objected the petition by filing counter stating that it is only a suit for injunction and not for title, they are the best persons to choose the parties, who are obstructing and causing hindrance to their possession and therefore, the proposed parties are neither necessary nor proper for adjudication of the suit.

7. In the impugned order, the trial Court observed that as per the contention of the defendants, the suit land is assigned by Government in the name of Jamia Mosque and it is, in fact, in their possession and hence, for deciding the possession of the land as on the date of the suit, it is necessary to add the parties sought to be added as defendants and accordingly, allowed the said petition. Aggrieved by the same, the present civil revision petition is filed by the plaintiffs.

8. Heard Sri P.Sree Ramulu Naidu, leaned counsel for petitioners and Smt. G.Malathi, learned counsel for respondents.

9. The main contention of learned counsel for revision petitioners is that in a suit for injunction, the plaintiffs will add only those parties, who try to meddle with the possession and

enjoyment of the plaintiffs. Except them, none others need to be added. In the instant case, the Government or the Wakf Board have not challenged their right, title and possession so far and if they have any right, they would have filed a separate suit or they would have filed a petition to add themselves as parties in the suit. Since they have not taken any such steps, it can be safely presumed that they have no interest in the suit property and therefore, their inclusion is unwarranted. He, thus, prayed to allow the civil revision petition and set aside the impugned order.

10. *Per contra*, learned counsel for respondents would submit that the nature of the property is essential for determination of respective rights of the parties in the suit. The suit property is not a private property and on the other hand, it was assigned by the Government by virtue of Gazette to Jamia Mosque and it has been in possession of the same for conducting the religious festivals thereon. Therefore, inclusion of defendant Nos. 4 to 7 is very much essential to determine the issues involved in the suit.

11. It is true that this is a suit for injunction simplicitor and not for declaration of title of the plaintiffs. It is also true that in a suit for injunction, the plaintiffs are the *Dominus litis*, and hence, can choose those persons as defendants, who meddle with their possession and enjoyment. However, at the same time, it cannot be forgotten that when the defendants question the title and possession of plaintiffs, the Court has to incidentally look into the title of the parties coupled with the possession. In such an instance, the parties, who can assist the Court in deciding the

nature and title over the property, can be added as proper parties if not as necessary parties, for proper adjudication of the matter.

12. Viewed in that angle, the impugned order cannot be termed as either perverse or illegal. I find no merits in the civil revision petition and the same is accordingly dismissed. No costs.

Miscellaneous petitions, if any, pending in this revision petition shall stand closed.

U.DURGA PRASAD RAO, J

OCTOBER 26, 2017

Note:

Issue C.C. tomorrow.

(B/o)
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Date:26.10.2017

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