

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

CIVIL REVISION PETITION No.2701 of 2015

ORDER :

Heard both sides and perused the grounds urged in the revision and the impugned order dated 19.06.2015 in I.A.No.357 of 015 in O.S.No.478 of 2010 passed by the Additional Senior Civil Judge, Ongole.

The said suit is filed by the sole plaintiff against the sole defendant for specific performance. It is averred that pending suit, the sole defendant alienated the property in favour of the proposed 2nd defendant under registered sale deed marked as Ex.A8 dated 26.11.2010. The suit trial is in progress and the Court below observed that the said sale deed obtained by proposed defendant from the sole defendant is subsequent to filing of the suit by the plaintiff against the defendant, thereby, sale is hit by Section 52 of the Transfer of Property Act and subject to the result of the suit for specific performance alone, the title of the proposed party arises, thereby, he is no way a necessary party to be impleaded. In fact, it is not the third party implead petition, but for, seeking by the plaintiff in saying the alienee *pendentilite* is also bound to submit the relief of specific performance. If such is the case, the petitioner cannot ask merely for impleadment in the suit of him as a proposed party but also to ask the consequential amendment in the relief

also from the subsequent event to bind the proposed party also to execute the sale deed by holding the sale between the 1st defendant and proposed defendant is not binding on the plaintiff in asking to submit the relief, which is not the case herein.

Having regard to the above, the Civil Revision Petition is disposed of giving liberty to file such an application with said reliefs.

Consequently, miscellaneous petitions, if any, pending shall stand closed.

Date: 20-11-2017
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Dr. B. SIVA SANKARA RAO, J

