

HON'BLE SRI JUSTICE S.V.BHATT

CIVIL REVISION PETITION NO.5154 OF 2017

ORDER:

The revision petitioner filed I.A.No.1070 of 2017 in O.S.No.671 of 2011 in the Court of Principal Junior Civil Judge, Kurnool, to implead the revision petitioner as 2nd defendant in the suit.

O.S.No.671 of 2011 is filed for perpetual injunction by the 1st respondent herein. The application of revision petitioner was resisted and through the order impugned in the revision, the learned trial Judge found that the grievances and the corresponding remedies, if any, are to be worked out independently and by recording the following finding, dismissed the revision.

“On perusing the record, the 1st respondent of this petition filed the suit against the 2nd respondent for grant of permanent injunction restraining him from in any way interfering with the existing old wall in the dead end of the lane in respect of the schedule property, and admittedly the Hon'ble High court fixed a time for disposal of the suit and this court directed the 1st respondent to proceed with the trial to dispose the suit within time fixed by the Hon'ble High Court. Meanwhile, the present petition is filed. Admittedly, the plaintiff is at liberty to add the party since his own rights effected by the acts of the other party. Accordingly, the 1st respondent chose the 2nd respondent and approached the court as the 2nd respondent infringed his rights as 2nd respondent tried to interfere his peaceful possession and enjoyment over the schedule property. The 1st respondent did not mention about the right of the petitioner in the plaint in anywhere. No

doubt that even the 1st respondent not filed suit along with present petitioner against the 2nd respondent. If the petitioner feels that the 1st respondent/plaintiff is causing any inconvenience in respect of his right and possession of his property, he can file the suit against the 1st respondent/plaintiff or if the 2nd respondent may cause inconvenience to the petitioner, he may file the suit against the 2nd respondent separately. But without having any cause of action and without having any threat either from the 1st respondent or 2nd respondent, the petitioner has no right to add as one of the defendant in the suit because he is not the necessary party to the suit. Further, the title or right of the petitioner not infringed either of the parties just because he is adjacent owner of the 1st respondent, he has no right to add as a defendant in the suit. Accordingly, this court found that there are no merits in this petition, and accordingly the point is answered against the petitioner.”

Hence, the Civil Revision Petition.

Mr.Staram contends that by impleading the revision petitioner herein there can be proper and comprehensive adjudication on the subject matter of plaint schedule and by impleading the revision petitioner herein as one of the parties to the suit, the possibility of giving up or abandoning the claim can be avoided.

This Court, after taking note of findings recorded by the trial court and the submissions urged by Mr.Staram, is of the view that it is in the fitness of things that the revision petitioner, if he has independent claim and right, works out his grievances, if cause of action subsists as on date or would arise in future and by

getting impleaded as 2nd defendant in a suit for perpetual injunction, particularly, at this stage of the matter, is rightly rejected by the trial Court. I see no reason to interfere with the order under revision.

The Civil Revision Petition fails and is accordingly dismissed.
No order as to costs.

Miscellaneous petitions, if any, pending, shall stand closed.
No order as to costs.

Dt: 06.10.2017
Prv

S. V. BHATT, J

