

THE HON' BLE SRI JUSTICE M. SEETHARAMA MURTI

Civil Revision Petition No.5310 of 2015

ORDER:

This civil revision petition, under Article 227 of the Constitution of India, by the unsuccessful petitioners/ plaintiffs is directed against the orders, dated 29.10.2015, of the learned III Additional District Judge, Bhimavaram, West Godavari District, passed in I.A.No.496 of 2015 in O.S.No.48 of 2014.

2. I have heard the submissions of *Sri G.L.Narasimha Rao*, learned counsel appearing for the petitioners/ plaintiffs; and of *Sri Y.Pamatirtha*, learned counsel for the respondents 1 to 3. It is to be noted that the respondents 4 and 6 are served with notices and the notices sent twice to the last known address of the 5th respondent were returned with an endorsement 'no such addressee'. Therefore, it is stated that there is deemed service. The respondents 4 to 6, who are defendants 4 to 6 in the suit have not entered appearance in this revision. I have perused the material record. The parties in this revision shall hereinafter be referred to as the plaintiffs and the defendants for convenience and clarity.

3. The facts, which are necessary to be stated as a preface to this order, in brief, are as follows:

The revision petitioners/ plaintiffs brought the suit against the respondents 1 to 6/ defendants 1 to 6, for declaration of right and title of the plaintiffs and the defendants 4 to 6 in respect of 'CDEF' red marked portion of the plaint plan and for recovery of possession of the same and for consequential perpetual injunction restraining the defendants 1 to 3 and their men from interfering with their peaceful possession and enjoyment over the suit schedule property and for costs. The defendants 1 to 3 having filed a written statement are resisting the suit. In the pending suit, the plaintiffs filed

the aforesaid interlocutory application under Order I Rule 10 read with Section 151 of the Code of Civil Procedure, 1908, requesting for permission to implead (i) Bondada Veera Venkata Radha Krishna; (ii) Aduri Venkata Murali Krishna Rao; (iii) Kakarla Sree Ramulu; (iv) G.Yelisha, (v) Ambati Srinivasa Pulla Rao; (vi) Koliseti Surya Kumari; (vii) Gontla Lakshmi; (viii) Mutyala Gajalakshmi; (ix) Timmareddy Madhavi; (x) Atyam Mangatayaru; (xi) Vemula Lakshmi Venkata Krishna Nagendra Rao; (xii) Chopperla Manikanta; (xiii) Bhimavarapu Athif; (xiv) Sannidhi Venkateswara Rao; (xv) The Branch Manager, Corporation Bank, Akiveedu; (xvi) The Branch Manager, Syndicate Bank, Akiveedu; (xvii) K.Uma Maheswari; and, (xviii) The Secretary, Gram Panchayat, Akiveedu village, West Godavari District, as defendants 7 to 24 in the suit. The said petition was resisted by the defendants 1 to 3 by filing a counter. On merits and by the order impugned, the trial Court dismissed the petition of the plaintiffs. Hence, the plaintiffs are before this Court.

4. At the outset, it is to be noted that it is borne out by record and it is also brought to the notice of the Court that in the interlocutory application filed by the plaintiffs before the trial Court, the proposed parties are not arrayed as respondents and their names, details and addresses were not shown in the cause title of the interlocutory application. The proposed parties are not served with notices and they were not given an opportunity of hearing before the aforesaid interlocutory application is disposed of by the impugned orders. For the said reason, the interlocutory application being defective is liable for dismissal in lumine. In this revision petition also, the proposed parties are not added as parties and they are not shown as respondents in the cause title. Be that as it may.

5. The case of the plaintiffs in support of their request, in brief, is as follows: "The defendants brought into existence the sale deeds in the names of purchasers, i.e., some of the proposed parties with an intention to cause loss

to the plaintiffs and drag the matter. One of the proposed defendants, namely, Secretary, Gram Panchayat, Akiveedu village, who is aware of the disputes between the parties intentionally got managed the approvals of the house plans by influencing not only the higher authorities but also the defendants 1 to 3. Hence, the proposed parties are necessary parties to the suit.”

6. The case of the defendants 1 to 3 is this: ‘The defendants 1 and 2 are in possession and enjoyment of their respective properties, viz., Ac.0.41 cents, Ac.0.16 cents, by virtue of separate sale deeds, dated 24.04.2010, from Fatima Birjis. The 3rd defendant has nothing to do with the suit schedule property and the said fact is already mentioned in the written statement filed by the defendants 1 to 3. The suit schedule property was sold to number of persons during the years 2011 and 2012 long before filing of the suit. The plaintiffs are very much aware of the said fact; but, they failed to take appropriate steps to add the purchasers as parties to the suit within a reasonable time. The application for impleadment is not filed within three years from the dates of the sale transactions; and, the reliefs, if any, to which the plaintiffs are entitled to against the purchasers are barred by law of limitation. The purchasers from the defendants 1 and 2 are *bona fide* purchasers. They acquired valid title to the properties respectively purchased by them. They have been in possession and enjoyment of their respective plots and are paying taxes to the local authorities; and, in the facts and circumstances of the case, the proposed parties are not necessary parties to the suit and they need not be impleaded as defendants 7 to 24 in the suit. Hence, the petition may be dismissed.’

7. Be it noted that the trial Court, by the impugned order, dismissed the petition only on the ground that the plaintiffs belatedly filed the petition for impleadment and that the petition for impleadment is not filed within a reasonable time and within three years from the dates of sale transactions,

though the plaintiffs are having knowledge of the same. Since the proposed parties are not arraigned as respondents in the interlocutory application and as the said petition was disposed of without notices to them and without affording an opportunity of hearing to them, there is no need to advert to any other aspects including the merits of the request of the plaintiffs for impleadment of the proposed parties, as any order passed without notices to the proposed parties and without giving an opportunity of hearing, would not bind them and would not advance the case of the plaintiffs any further. In that view of the matter, and for the reasons assigned, this Court finds that the revision petition is liable to be dismissed.

8. Accordingly, the Civil Revision Petition is dismissed. It is made clear that since this Court has not examined the merits of the request of the plaintiffs for impleadment of the proposed parties as defendants 7 to 24, it is needless to state that it is open to the plaintiffs to file an appropriate fresh application for the same relief before the trial Court by following the procedure established by law. It is further made clear that if any such application comes to be filed by the plaintiffs, the trial Court shall give an opportunity of hearing to all concerned and then dispose of the same in strict accordance with the procedure established by law.

There shall be no order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

27th November, 2017
RAR

M. SEETHARAMA MURTI, J