

THE HON' BLE SRI JUSTICE C. PRAVEEN KUMAR

CIVIL REVISION PETITION No.362 of 2017

ORDER:

Heard.

2. The present civil revision petition is filed under Article 227 of the Constitution of India assailing the order and decree dated 31.10.2016, passed in I.A.No.34 of 2016 in O.S.No.36 of 2013 on the file of the VIII Additional District Judge, Chittoor District, wherein an application filed seeking to implead the proposed parties as defendant Nos.7 and 8 in main suit, was allowed.

3. The facts in issue are as under:

It is stated that the respondent/plaintiff filed a suit for declaration of title vide O.S.No.36 of 2013. Pending the said suit, the proposed defendants made an application seeking to implead themselves as proposed defendants in the main suit, stating that item No.1 of the plaint schedule property which originally belonged to the first defendant, was sold under registered conditional sale deed dated 21.04.2010. As per the conditions mentioned in the sale deed, the first defendant has to pay back the sale consideration amount on or before 20.04.2013 for a sum of Rs.6,72,000/- and can acquire regular registered sale deed from one C.Sudhakar Reddy in his favour to item No.1 of the plaint schedule property. It is averred that as the defendant could not pay the sale consideration as per the terms mentioned in the sale deed and the sale deed in favour of the said C.Sudhakar Reddy became final. It is stated that the father of the

proposed defendants purchased plaint schedule property under a registered sale deed dated 18.10.2013 from one C.Sudhakar Reddy and obtained possession over item No.1 of the plaint schedule property, pattadar pass book and title deed and got mutated his name in the revenue records. It is the case of the proposed defendants that on 12.11.2014, their father died leaving them as legal heirs over the property and accordingly they filed the said I.A. seeking to implead them as proposed defendants in order to protect their interest over the property. A counter came to be filed opposing the above said contentions. The only ground raised in the counter is that the proposed defendants have no right to claim over the property in dispute. It is averred in the counter affidavit that the father of the proposed defendants was one of the partner in Bharath Finance Register, Chittoor and the said finance company filed I.P.No.38 of 2010 against respondent Nos.2 to 5 herein, wherein the Finance Company pleaded that respondent Nos.5 herein and respondent Nos.2 to 4 colluded together and created nominal sale deed dated 21.04.2010 in favour of respondent No.5. It is averred that the averments made in the petition are quite contra to the pleadings in I.P.No.38 of 2010 and that respondent No.5 i.e., Sudhakar Reddy has no right over the plaint schedule property, as he has no right to execute alleged sale deed dated 18.10.2013 during the pendency of the above said IP proceedings. Hence the alleged sale deed is a void document and as such the proposed defendants has no right to claim basing on the void document.

4. Having regard to the above circumstances, it is contended by the learned counsel for the petitioner that defendants Nos.7 and 8 are unnecessary parties in the above said proceedings, but, the trial Court

erred in allowing the said I.A. on the ground that the main suit cannot be decided without impleading defendant Nos.7 and 8 in the main suit.

5. It is to be noted that one C.Sudhakar Reddy executed registered sale deed in favour of father of proposed defendants on 20.04.2013 in respect of the property in dispute and the same is not denied by either of the parties. Though the petitioner herein contends that the said document is void document, the said fact can only be decided during trial proceedings and not at this stage.

6. Having regard to the admission made that the father of defendant Nos.7 and 8 purchased the property in dispute and he died, the proposed defendants/respondents herein who are legal heirs to the deceased certainly would have interest over the property in dispute.

7. In view of the above, this Court is of the view that defendant Nos.7 and 8 are necessary parties to the main suit and are essential for adjudication. The issue as to the validity of the document can be decided only during trial. Hence, I see no reason to interfere with the order passed by the trial Court and the CRP is dismissed. No costs.

As a sequel thereto, Miscellaneous Petitions, if any, pending, shall stand closed.

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JUSTICE C. PRAVEEN KUMAR

10.02.2017

vhb