

THE HONOURABLE SRI JUSTICE M. S. RAMACHANDRA RAO

CIVIL REVISION PETITION NO.984 OF 2017

ORDER:

This Revision petition is filed under Article 227 of the Constitution of India challenging the order dated 18.01.2017 in I.A.No.1396 of 2014 in O.S.No.371 of 2007 on the file of Senior Civil Judge, Bhimavaram.

2. The first respondent is the plaintiff in the above suit. An extent of Acs.6.00 was sold by the first respondent to the second respondent under registered sale deed dated 12.08.1977 subject to certain conditions. Alleging that the said conditions were violated by the second respondent and seeking reconveyance of the property apart from compensation of Rs.1 lakh, the first respondent filed the suit against the second respondent in the year 2007.

3. Prior to filing of the said suit, notice was also been given by the first respondent on 31.03.2006 to the second respondent.

4. Thereafter the President of the second respondent incorporated the petitioner Society on 20.11.2006.

5. He claims that the petitioner was inducted into possession of the schedule land in January 2007, that the petitioner came to know about the pendency of the suit some time in December, 2014

and therefore he ought to be impleaded as defendant in the said suit by filing I.A.No.1396 of 2014.

6. Counter affidavit was filed by the first respondent opposing the application, specifically taking a plea that the petitioner came into existence for the purpose of the suit and that the second respondent had no right to divest its rights in favour of the petitioner.

7. By an order dated 18.01.2017, the said application was rejected. The Court below referred to the fact that the suit was filed by the first respondent in 2007 on the basis of the contents of the sale deed dated 12.08.1977 executed by the first respondent in favour of the second respondent; that the petitioner was not a party to the said proceedings and has no locus to question the conditions of the sale deed. It also held that after the suit notice was issued on 31.03.2006, the petitioner society was registered and this application is filed with an intention to contest the suit without having any right therein. It also held that petitioner was sought to be impleaded to avoid the condition of reconveyance in the sale deed with malafide intention.

8. Assailing the same, this Revision is filed.

9. Sri D.Hanumanth Rao appearing for Sri Challa Ajay Kumar contended that the order passed by the Court below cannot be sustained; that since the petitioner is inducted in possession of the subject land, it would be directly affected if any adverse order is

passed in the suit and therefore it has a right to be impleaded in the suit.

10. He did not dispute that fact that the petitioner society was registered on 20.11.2006 under the Societies Registration Act, 2001, after the first respondent got issued the suit notice to the second respondent on 31.03.2006. He also did not dispute the fact that the Chairman of the second respondent also sponsored the petitioner society and is recipient of the legal notice from the first respondent.

11. It is thus apparent that anticipating the filing of the suit by the first respondent against the second respondent, the petitioner society was created deliberately by the Chairman of the second respondent with a malafide intention to harass the first respondent by dragging on the litigation.

12. Admittedly, the application to implead the petitioner was filed on 11.12.2014 i.e., 7 years after the filing of the suit.

13. In my considered opinion, the Court below had rightly held that the very creation of the petitioner is with malafide intention, that the petitioner had nothing to do with the document which is subject matter of the suit and is not entitled to get impleaded as a party in the suit.

14. I therefore do not find any error in the order passed by the Court below warranting no interference by this Court in exercise of its jurisdiction under Article 227 of the Constitution of India.

15. Accordingly, the C.R.P. is dismissed. No costs.

Miscellaneous Petitions, if any, pending in this revision, shall stand dismissed.

M. S. RAMACHANDRA RAO, J

Date: 03-03-2017
vhb

