

HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

C.R.P.No.2049 OF 2017

ORDER:

This civil revision petition is filed under Article 227 of the Constitution of India by the petitioners challenging the order dated 11.11.2016 in I.A.No.18 of 2016 in O.S.No.1162 of 2007 passed by the IV Additional Rent Controller-cum-XVI Junior Civil Judge, City Civil Court, Hyderabad, whereby the petition filed under Order 1 Rule 10 of the Code of Civil Procedure (for short 'C.P.C.'), was dismissed.

2. The petitioners filed a petition to implead them as defendants 26 and 27 in the main suit alleging that the suit is filed for cancellation of decree and judgment in O.S.No.4463 of 1998. The proposed parties i.e. respondents 26 and 27 were not parties to the said suit. Respondent No.2, who allegedly executed the Memorandum of Understanding, is not a party to the suit, but his father was a party, as sole defendant in that suit. Therefore, based on Memorandum of Understanding where the proposed parties were authorised to negotiate and settle the dispute, and appear before the Court or by mediation they are proper and necessary parties to the suit.

3. The trial Court after perusing the Memorandum of Understanding concluded that the same did not create any interest in any property and in the absence of any interest in the subject matter of the suit, the proposed parties are neither proper nor necessary parties to the suit and dismissed the same.

4. Aggrieved by the said order, the present revision petition is filed mainly on the ground that as per the Memorandum of

Understanding the proposed parties are necessary parties for the reason that they were authorised to settle the dispute between the parties either in the Court or outside the Court, thereby they became agents of the petitioners and consequently, they are necessary parties to the suit. But, the trial Court did not consider the conditions contained in the Memorandum of Understanding in proper perspective and committed an error in dismissing the petition.

5. During hearing, learned counsel for the petitioners while reiterating the contentions, drawn the attention of this Court to Clause No.2 of the Memorandum of Understanding and on the strength of the same, he contended that they are necessary parties to the suit.

6. The basis for filing this petition under Order 1 Rule 10 C.P.C. is the Memorandum of Understanding executed on 25.09.2013. The main thrust of the learned counsel for the petitioners is that the proposed parties are necessary to adjudicate the real controversy between the parties by the Court and in the absence of the same the suit cannot be adjudicated effectively. Clause 2 of the Memorandum of Understanding reads as follows:

“That the First Party declares that there are certain litigations in and over the above said lands and the second party herein has agreed to resolve the said litigation in and over the above said land either through court process, or out of court process or by negotiations etc. by using good office or any other means such as mediation etc as the case may be.”

7. As per Clause 4, the first party is to resolve all the previous issues or any litigation pending or any agreement with counsel by the first party with the third party affairs. Any of the terms and conditions contained in the Memorandum of Understanding does

not disclose creation of any interest in the subject matter of the property in favour of the proposed parties. But, they were authorised to settle the disputes either through process of Court or any alternative methods of resolution of disputes. Therefore, at best, they are competent to resolve the disputes in any of the alternative modes of resolution of disputes, but not in the Court. Even otherwise, they are authorised to settle the disputes even through Court of law when no interest is created and they cannot participate in any proceedings as such and they are not proper and necessary parties to the suit as the suit can be adjudicated even in their absence effectively. Hence, I find no ground to interfere with the order passed by the trial Court, as it is in accordance with law and by exercising discretion conferred on it.

8. Accordingly, the Civil Revision Petition is dismissed at the admission stage. There shall be no order as to costs.

Pending miscellaneous petitions in the petition, if any, shall stand closed.

M.SATYANARAYANA MURTHY,J

22.06.2017
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