

THE HONOURABLE SRI JUSTICE M.S. RAMACHANDRA RAO

CRP.No.4540 of 2016

ORDER:

This Revision is filed challenging the order dt.08.07.2016 in I.A.No.32 of 2015 in O.S.No.86 of 2014 on the file of Additional Junior Civil Judge, Nidadavole.

2. The 1st respondent is the plaintiff in the said suit. She filed the suit against respondent nos.2 and 3 for perpetual injunction restraining them from interfering with her right in erecting a drinking bore-well point at point 'P' in the plaint plan which is said to be located in her plaint schedule property.

3. The petitioner is her neighbour. He filed I.A.No.32 of 2015 to implead him as a party-respondent in the suit.

4. He contended that his land is to the eastern side of 1st respondent's property; that earlier the 1st respondent tried to dig a bore-well within prohibited distance from the petitioner's existing water source violating the provisions of the Andhra Pradesh Water, Land and Trees Act, 2002 (for short, 'the Act'), and he had opposed the same before the Revenue Authorities because of which the respondent nos.2 and 3 had instructed the 1st respondent not to dig any bore-well; that the 1st respondent earlier filed O.S.No.20 of 2012 against petitioner and another regarding digging of a bore-well; that

the said suit was dismissed for default and suppressing the filing of the said suit, she filed the present suit; and that if the suit is decreed his interests would be affected, and therefore he should be impleaded as a party in the suit.

5. The 1st respondent filed a counter opposing this application stating that the petitioner is in no way connected with the suit and that her real dispute is with respondent nos.2 and 3; that she never intended to violate the provisions of the Act or Rules made thereunder; and since she was the plaintiff, it was her choice to implead the persons against whom she would litigate.

6. By order dt.08.07.2016, the Court below dismissed the said application. It observed that the petitioner, if he had any grievance, should file a fresh suit against the 1st respondent and he cannot seek impleadment in the present suit since the 1st respondent was the *dominus litis*, and she cannot be compelled to fight against a party against whom she does not seek any relief.

7. Challenging the same, the present Revision is filed.

8. Heard Sri Davuluri Narasimha Rao, counsel for petitioner; and Sri K. Jyothi Prasad, counsel for 1st respondent.

9. The counsel for petitioner contends that the purpose of the petitioner getting impleaded is to protect his interest so that the 1st respondent does not dig a bore-well in violation of the distance limit prescribed in the Act and the Rules framed thereunder; and to avoid

multiplicity of proceedings, interests of justice require that the petitioner also be impleaded.

10. Sri Jyothi Prasad, counsel for 1st respondent, refuted the said contention and supported the order passed by the Court below.

11. From the facts narrated above, it is clear that the petitioner is the neighbour of respondent, and the petitioner apprehends that any bore-well which the 1st respondent might dig would affect his drinking water source and would also violate the provisions of the Act and the Rules made thereunder. It is also his allegation that the 1st respondent attempted to dig a bore-well within the prohibited distance from his water source and that respondent nos.2 and 3 prevented her from doing so.

12. In these facts and circumstances, the petitioner is justified in seeking impleadment in the suit filed by 1st respondent, because if her suit is decreed and she puts up a bore-well affecting his drinking water source grave prejudice would be caused to him.

13. The purpose of impleadment of parties is to avoid multiplicity of proceedings, and if he is impleaded in the present suit he need not file a fresh suit. Therefore, I am of the opinion that the Court below erred in not impleading the petitioner as a defendant in the suit filed by 1st respondent.

14. Accordingly, the Civil Revision Petition is allowed; the order dt.08.07.2016 in I.A.No.32 of 2015 in O.S.No.86 of 2014 on the file

of Additional Junior Civil Judge, Nidadavole is set aside; and the said I.A. is allowed. No order as to costs.

15. Miscellaneous petitions, pending if any in this Civil Revision Petition, shall stand closed.

JUSTICE M.S. RAMACHANDRA RAO

Date: 10-02-2017

Ndr/*

