

HON'BLE SRI JUSTICE D.V.S.S. SOMAYAJULU

Civil Revision Petition No.1936 of 2012

ORDER:

This Civil Revision Petition is filed against the orders dated 02.01.2012 in I.A.No.302 of 2011 in the suit O.S.No.225 of 2011.

The application is filed under Order-1 Rule-10 of the Civil Procedure Code to add the proposed respondent to the pending suit O.S.No.225 of 2011.

The suit is filed for partition of the properties mentioned in the plaint schedule.

The petitioners seek to add the proposed party because he has purchased the property *pendente lite* and therefore, he states that his presence is necessary to adjudicate the suit.

The respondents including the proposed party have entered appearance and opposed the application.

After hearing the parties, the lower Court passed the impugned order dated 02.01.2012. Against the same, the present Civil Revision Petition is filed.

Heard the learned counsel for the petitioners. None appears for the respondents.

The point for consideration is whether the order of the lower Court suffers from any infirmity or is contrary to law.

It is a well settled proposition of law that the party to be added to the suit should be a party without whose presence the matter cannot be disposed of. In this case, the suit is for

partition and as rightly observed by the lower Court, the proposed respondent is not in the original list of the defendants and sharers. He is subsequent purchaser. Hence, his presence is not necessary for effective disposal of the main suit itself.

In addition to the above, it is noticeable that the petitioners themselves have raised the issue of the purchases being covered by the *Doctrine of lis pendens* and the deponent of the affidavit has also clearly stated that the transfers are effected by Section 52 of the Transfer of Property Act, 1882. Therefore, it is clear that the respondents and the petitioners are aware of the implications of the *Doctrine of lis pendens* and consequences that may follow.

For all the above reasons, I am of the opinion that the presence of the proposed party is not necessary and that the order of the lower Court does not suffer from any infirmity. The suit for partition can be disposed off without the presence of the proposed parties.

In the result, the Civil Revision Petition is disposed of. However, there shall be no order as to costs. Miscellaneous Petitions, if any, pending in this revision shall stand closed.

D.V.S.S. SOMAYAJULU, J

Date: 06.10.2017

Isn