

THE HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

CIVIL REVISION PETITION No.2047 of 2016

ORDER:

This civil revision petition is filed under Article 227 of the Constitution of India challenging the order dated 29.2.2016 in I.A.No.89 of 2015 in O.S.No.40 of 2009 on the file of the Court of IV Additional District Judge, Tanuku.

2. Heard the learned counsel for the petitioner and the learned counsel for respondent Nos.1 to 3.

3. The respondent Nos.1 to 3 are plaintiffs and respondent Nos.4 to 8 are defendant Nos.1 to 5. A perusal of the record reveals that there is a dispute between the plaintiffs and defendant Nos.1 to 5 with regard to a chit transaction. The plaintiffs filed O.S. No.40 of 2009 against defendant Nos.1 to 5 for recovery of a sum of Rs.13,44,395/- with subsequent interest @ 24% per annum from the date of the suit till the date of the decree. It is the case of the plaintiffs that defendant Nos.1 to 5 have misused the signed blank withdrawal forms. During the pendency of the suit, the plaintiffs filed I.A. No.89 of 2015 under Order I Rule 10 CPC to implead the petitioners herein as defendant Nos.6 and 7 and for consequential amendment. The trial Court, by order dated 29.2.2016, allowed the petition impleading the petitioners as defendant Nos.6 and 7. Aggrieved by the same, the present civil revision petition.

4. The learned counsel for the petitioners submitted that the petitioners are Branch Manager, Eluru and General Manager of Indian Bank; they have nothing to do with the dispute between the

plaintiffs and defendant Nos.1 to 5; therefore, they are neither necessary parties nor proper parties. The learned counsel for the respondent Nos.1 to 3 submitted that the transaction took place in the Indian Bank; therefore, the petitioners have to be impleaded in the suit.

5. In the suit, no relief much less a specific relief is sought against the petitioners, who are impleaded as defendant Nos.6 and 7. The trial court allowed the petition as if the petitioners are necessary parties to the suit. A necessary party is one whose presence is indispensable to the constitution of the suit, against whom the relief is sought and without whom no effective judgment can be passed. A proper party is one in whose absence an effective order can be passed, but whose presence is necessary for a complete and final decision on the question involved in the proceeding. A duty is cast on the court to curb vexatious and frivolous petitions, which were filed with an ulterior motive of protracting the litigation by certain persons under the guise of *bona fide* parties to the proceedings. One of the objects of Order I Rule 10(2) CPC is to avoid multiplicity of proceedings. That does not mean a party to the proceedings can be permitted to file frivolous petitions under Order I Rule 10(2) CPC and drag on the proceedings. In the instant case, the *lis* between the plaintiffs and defendant Nos.1 to 5 can be adjudicated even without the presence of the petitioners. Even if the suit is allowed, no decree can be passed against the petitioners for recovery of money. In such circumstances, the petitioners cannot be treated as necessary parties and proper parties to the suit. Therefore, the finding

recorded by the trial court that the petitioners are necessary parties to the suit is not sustainable either on facts or in law. The finding of the trial court that the petitioners need not worry about the proceedings before the trial court is not at all sustainable. The Bank officials cannot be roped into civil litigations for the simple reason that they have made the transactions between the parties, as per the procedure.

6. Having regard to the facts and circumstances and also the principles enunciated in the cases cited supra, I am of the considered view that the order passed by the trial court is not sustainable either on facts or in law. There are grounds much less valid grounds to interfere with the orders passed by the trial court.

7. Accordingly, the civil revision petition is allowed, setting aside the order dated 29.2.2016 in I.A.No.89 of 2015 in O.S.No.40 of 2009 on the file of the Court of IV Additional District Judge, Tanuku. Consequently, I.A. No.89 of 2015 is dismissed. Allowing of this revision petition does not preclude the plaintiffs to call for the relevant bank records and examine the concerned officials of Indian Bank, Eluru, if so advised. Miscellaneous petitions, if any pending in this civil revision petition, shall stand closed.

T.SUNIL CHOWDARY, J

Date: 23.1.2017.

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