

THE HON'BLE SRI JUSTICE M.S.K.JAI SWAL

CIVIL REVISION PETITION No.59 of 2017

ORDER:

This civil revision petition is filed questioning the correctness of the order dated 10.11.2016 made in I.A.No.454/2016 in O.S.No.69/2012 on the file of the Principal District Judge, Srikakulam, by and under which, the learned District Judge allowed the interlocutory application filed under Order 1 Rule 10 CPC to implead the respondents Nos.1 to 3 herein as defendants nos.8 to 10.

Heard the learned counsel on either side.

In the petition filed to implead the respondents Nos.1 to 3 herein as defendants Nos.8 to 10, a consequential amendment is sought for to the following effect:

“To add para No.13 after 12th para as “the Defendant Nos.8 to 10 are having joint right, interest and title over the schedule mentioned property herein, as they are the brother's sons and daughter of the 1st defendant and in which their father is having undivided half share in the above said Ac.5-36 cents of land out of the total schedule mentioned property herein.”

While there is no objection for impleading the proposed parties as defendants since they have appear to have some rights over the property in question, but they cannot be allowed to amend the plaint filed by the plaintiffs. After having come on record, the proposed parties as Defendants Nos.8 to 10, they are at liberty to set up their own independent claim by way of written statement. The learned District Judge erred in allowing the application in toto instead of partly allowing the same in so far as impleading the proposed parties. The learned

District Judge ought to have dismissed the prayer in so far as to amend the plaint is concerned.

In that view of the matter, the civil revision petition is disposed of. The impugned order in so far as granting permission to the respondents Nos.1 to 3/defendants Nos.8 to 10 to amend the plaint is set aside. Needless to say that after the respondents Nos.1 to 3 come on record as Defendants Nos.8 to 10, they are at liberty to file their independent written statement, if they are so advised, and the trial court may frame additional issues, if necessary. No order as to costs.

Pending miscellaneous applications, if any, shall stand closed in consequence.

Date: 27.03.2017
Dsr



M.S.K.JAI SWAL,J