

THE HON' BLE SRI JUSTICE T.SUNIL CHOWDARY

Civil Revision Petition No.2699 of 2012

ORDER:

This revision petition is filed under Article 227 of the Constitution of India challenging the orders dated 15.12.2011 in I.A.No.820 of 2011 in O.S.No.206 of 2008 on the file of the court of III Additional District and Sessions Judge (FTC), Rangareddy District, at L.B.Nagar.

Heard the learned counsel for both parties.

The contention of the learned counsel for the petitioner is two fold:

1. The petitioner-society is entitled to file implead petition on behalf of its members; and
2. The trial Court has not considered the scope of Order 1 Rule 10 CPC and dismissed the petition.

Per contra, learned counsel for the respondents submitted that the petitioner's society has no *locus standi* to file a petition under Order 1 Rule 10 CPC. He further submitted that there is no illegality or irregularity in the orders passed by the Court below to set aside the same.

A perusal of the record reveals that respondents 1 to 3 herein have filed O.S.No.206 of 2008 on the file of the court of III Additional District Judge (FTC), Ranga Reddy District at L.B.Nagar, against the respondents 4 to 8 for partition of the suit schedule

property. After filing of the chief examination affidavit of the plaintiffs, the petitioner herein filed a petition under Order 1 Rule 10 CPC to implead it as one of the defendants in the main suit. The trial Court after affording a reasonable opportunity to both parties, dismissed the petition. Hence, the present revision.

The question that arises for consideration, in this revision petition, is whether the trial court is not justified in dismissing I.A. No.820 of 2011.

A careful perusal of the record reveals that respondents 1 to 7 are one family members. The suit is filed for partition of joint family properties among the respondents. It is the case of the petitioner that the members of the petitioner's society have purchased properties from the respondents. The suit is filed in the year 2008. It is the case of the petitioner that its members purchased the properties in the year 2006 and 2010. The petitioner has not mentioned the names of the members, who alleged to have purchased the property from the respondents. There is no mention in the affidavit when the society was registered. The trial Court dismissed the petition on the ground that the petitioner society is not a registered one. It is not in dispute that the petitioner did not file the registration certificate before the trial Court. It is also not in dispute that the petitioner's society did not file the sale deeds alleged to have executed by the respondents in favour of the members of the petitioner society.

Even assuming but not admitting that the members of the petitioner society purchased the suit schedule property, the society is not an aggrieved party. If really the members of the society have purchased the property from the respondents, what prevented them to approach the trial Court for all these years. It is needless to say that a person who files an application under Order 1 Rule 10 has to establish that he or it has any interest in the subject matter of the suit or any resemblance of interest in the subject matter of the suit. Even as per the admitted case, the petitioner did not purchase properties from the respondents. A perusal of the record clearly demonstrates that the petitioner has no interest or any semblance of interest in the subject matter of the suit. In such circumstances, permitting the petitioner to come on record under Order 1 Rule 10 CPC is nothing but abuse of process of the Court as the petitioner is not a party to the sale deeds. The trial Court considered the material available on record and arrived at a conclusion that the petitioner failed to satisfy the ingredients of Order 1 Rule 10 CPC and dismissed the petition. I am fully endorsing with the finding recorded by the trial Court. There is no illegality or irregularity or impropriety in the order of the Court below, which warrants interference of this Court while exercising supervisory jurisdiction under Article 227 of the Constitution of India. This Court cannot act as a Court of appeal while exercising the jurisdiction under Article 227 of the Constitution of India. Viewed from any angle, the revision petition

lacks merits and bonafides. Hence, the C.R.P. is dismissed. As a sequel, the miscellaneous petitions, pending if any, shall stand closed.

T.SUNIL CHOWDARY, J

26th April, 2017.
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