

THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CIVIL REVISION PETITION No.1243 OF 2017

ORDER:

This Civil Revision Petition, under Article 227 of the Constitution of India, came to be filed by the petitioner/defendant No.12 challenging the order dated 14.12.2016 passed in Interlocutory Application No.190 of 2016 in Original Suit No.63 of 2015 by the Senior Civil Judge, Puttur, wherein the petition filed by the 1st respondent/plaintiff under Order I Rule 10 CPC to implead respondent No.12 as defendant No.12 in the main suit, was allowed.

2. The 1st respondent/plaintiff filed the above suit for partition. Pending the said suit, she filed the aforementioned interlocutory application to implead the petitioner as a party to the proceedings. The affidavit filed in support of the said I.A., discloses that the property mentioned in the said petition is a joint family property and the same has to be partitioned. One A.Gangi Reddy, who is the petitioner herein, claims to have purchased the said property from her father and that her father never sold the said property to him. It is said that there was neither any necessity nor they were informed about such sale transaction. It is further stated that even after the transaction, the same is not binding on the 1st respondent herein. For the purpose of effective adjudication of the above suit, the said property be added to the plaint schedule and A.Gangi

Reddy, who is claiming to be the owner of the said property, be impleaded in the above suit.

3. A counter came to be filed disputing the averments made in the revision.

4. After considering the rival submissions, trial Court allowed the application, which is the subject matter of the challenge in the present revision.

5. Learned counsel for the petitioner mainly submits that the petitioner is no way concerned with the 1st respondent or her family. According to him, in a suit for partition, the petitioner is unnecessarily tagged on and his property is sought to be included in the suit schedule property. In the absence of any material to show that the petitioner has right over the subject property, he cannot be made as a party i.e., defendant No.12.

6. However, learned counsel for the 1st respondent submits that out of three survey numbers referred in the counter filed by the petitioner herein, the land in Sy.No.120/6 belongs to grandfather of the 1st respondent herein, which is alleged to have been purchased by the petitioner.

7. In order to adjudicate the issue, it is useful to refer to paragraph No.5 of the counter affidavit filed by the petitioner/defendant No.12, which reads as under:

“5. It is submitted that, the land in Sy.No.120/5 an extent of Ac.0.27 cents, Sy.No.120/6 an extent of Ac.0.31 cents and Sy.No.120/8 an extent of Ac.0.16 cents are originally belongs to one Bojjaiah @ Ankaiah, he had been in possession and enjoyment of the same and the said Bojjaiah @ Ankaiah for his need and necessities he sold the same in favour of this defendant father namely Muni Reddy through Registered sale deed dated 12-12-1966 for a sum of Rs.1,500/- and delivered possession on the same day, since then the said Muni Reddy had been in possession and enjoyment of the same, after his death his sons Munikrishna Reddy and this defendant are succeeded the same, during the partition between Munikrishna Reddy and this defendant, the above property described supra fell to share to this defendant, so this defendant have been in possession and enjoyment of the same and raising crops and he has also obtained pattadar pass book and title deed in his favour, all the Revenue records shows this defendant is pattadar and enjoyer.”

As seen from the affidavit filed by the 1st respondent, the same is silent as to the extent of the land, which is sought to be made as plaint schedule property. It is to be noted here that even according to the 1st respondent, out of three survey numbers, land in Sy.No.120/6 belongs to the petitioner herein. It is clearly stated across the Bar that the land in Sy.No.120/6 admeasuring Ac.0.31 cents is claimed by the 1st respondent herein. The same is strongly disputed by the learned counsel for the petitioner stating that he purchased the same from one Bojjaiah @ Ankaiah in 1966 through the registered sale deed dated 12.12.1996. Since there is a dispute with regard to title over the property, the petitioner cannot be

added as a party to the suit, which is filed for partition of joint family properties. Hence, the order under challenge is liable to be set aside.

8. Accordingly, the Civil Revision Petition is allowed setting aside the order dated 14.12.2016 passed in Interlocutory Application No.190 of 2016 in Original Suit No.63 of 2015 by the Senior Civil Judge, Puttur. However, the respondent herein is at liberty to avail remedies available under law with regard to claim or right over the said property.

Consequently, Miscellaneous Petitions, if any, pending in this revision shall stand closed. There shall be no order as to costs.

Date:14.07.2017
INL

JUSTICE C. PRAVEEN KUMAR

