

HONOURABLE SRI JUSTICE M.SATYANARAYANA MURTHY

CIVIL REVISION PETITION No.1710 OF 2015

ORDER:

This revision is filed against the order in I.A.No.1936 of 2014 in O.S.No.5 of 2006 passed on 5th February, 2015 by the II Additional District Judge at East Godavari at Amalapuram permitting the petitioners to come on record.

The petitioners filed an application under order 7 Rule 11 to reject the claim on the ground that the defendants ceased to be the owners of the property having an interest along with the petitioners therein, thereupon, these petitioners filed an application under Order 22 Rule 10 of C.P.C. to come on record as they purchased undivided joint property from plaintiffs 1 and 2 under the Registered sale deed dated 25-7-2012 for a valuable consideration. Therefore, they are entitled to come on record. The trial court upon hearing argument of both counsel rejected the contention of the petitioners herein i.e., the petition filed under Order 7 Rule 11 however, permitted the petitioners to come on record while following the principles of law declared by this court in *KATTA VENKATESWARA RAO Vs. CH.LEELAVATHI (DIED) AND OTHERS* (¹) and now the order is under challenge before this court under the Constitution of India.

Learned counsel would contend that in rejection of petition while upholding the contention is an error by the petitioners as

¹ 2008 (6) ALT 323

petitioners did not come forward to implead themselves as parties to the suit till the petitioners filed an application under Order 7 Rule 11 C.P.C. and thereby, the order passed by the trial court is erroneous.

The suit is filed for partition of schedule property and plaintiffs 1 and 2 under a registered sale deed dated 25-7-2012 sold their undivided share in the schedule property for valuable consideration. Thus, the respondents herein became the tenants in common and though they are not entitled to file a suit for partition, they can continue the suit filed for partition stepping into the shoes of their vendors and at best they are unable to claim equities since they are purchasers during the pendency of the suit and the trial court followed the principle laid down in the decision of this court referred supra (i.e., *KATTA VENKATESWARA RAO Vs. CH.LEELAVATHI (DIED) AND OTHERS*), but that is a suit for injunction. However, the disputed fact is the interest in the suit schedule property. Merely because one party sold his share and the suit should not be abated and party can file a suit as the petitioners are already in possession. Therefore, the order passed by the trial court does not suffer from any illegality warranting interference by this court by exercising powers under Section 227 of the Constitution of India which is supervisory in nature.

Hence, I find no grounds to set aside the impugned order passed by the trial court and consequently, this petition is liable to be dismissed.

Accordingly, this Civil Revision Petition is dismissed. No costs.

As a sequel to the disposal of this revision, the Miscellaneous
Petitions, if any, pending, shall stand dismissed.

JUSTICE M.SATYANARAYANA MURTHY

Dated 24-4-2017.

Dvs.



HONOURABLE SRI JUSTICE M.SATYANARAYANA MURTHY



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Dated 24-4-2017.

Dvs