

HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

CIVIL REVISION PETITION No.203 of 2017

ORDER:

This Civil Revision Petition is filed by the petitioner/plaintiff aggrieved by the order dated 9.12.2016 in I.A.No. 826 of 2015 in O.S.No. 71 of 2010 on the file of Junior Civil Judge, Jammalamadugu, Kadapa District, where under learned Judge dismissed the petition filed by the plaintiff under Order 1 Rule 10 CPC to implead (1) Jampana Madhu Sudhakar Reddy and (2) Kavaluru Venkata Ramana Reddy, as defendants 10 and 11.

2. Plaintiff filed suit for partition. In I.A. No. 826 of 2015, his version is that the 5th defendant without the knowledge of anybody executed gift deed in respect of plaint schedule mentioned property in favour of the proposed 10th defendant, who is his son and the said proposed 10th defendant in turn executed agreement of sale in favour of proposed 11th defendant and therefore, both the said persons are necessary parties to the suit. However, the trial Court dismissed the said petition on the main observation that the 5th defendant was already on record and the petitioner/plaintiff has not explained as to how the proposed parties are necessary or concerned with the suit schedule property. Hence, the Civil Revision Petition.

3. Though notice on proposed respondents 10 & 11 was served there is no representation.

4. Heard learned counsel appearing for petitioner.

5. As can be seen from the contents in I.A.No. 826/2015, the petitioner/plaintiff has clearly mentioned that 5th defendant has executed a gift deed in respect of suit schedule property without the knowledge of anybody, in favour of the proposed 10th defendant. It is also mentioned that proposed 11th defendant filed suit against the proposed 10th defendant for injunction claiming ownership of the property in an extent of 25 cents and both of them had no right. In these circumstances, the trial Court's observation that the petitioner has not mentioned as to how the proposed parties are concerned with the suit property is not correct. In the interest of justice and to avoid multiplicity of the proceedings, it is considered fit to add the proposed parties as defendants.

6. Accordingly, the impugned order dated 9.12.2016 in I.A.No. 826 of 2015 in O.S.No. 71 of 2010, is set aside and said petition is allowed and the trial Court is directed to add proposed defendants 10 and 11 and proceed with the suit on merits.

7. The Civil Revision Petition is allowed accordingly. As a sequel there to, miscellaneous applications, pending if any, shall stand closed.

Date: 12.10.2017
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U.DURGA PRASAD RAO, J