

***THE HON'BLE SRI JUSTICE P. NAVEEN RAO***

**CIVIL REVISION PETITION No.4160 OF 2017**

Dated:17.11.2017

Between:

Gurram Malla Reddy,  
S/o. Linga Reddy, aged 66 years,  
Occ: Business, R/o.H.No.8-4-266,  
Ganesh Nagar, Karimnagar and another .. Petitioners

And

Gonela Ravinder, S/o. Sammaiah,  
Aged 51 years, Occ: Agriculture and  
Business, R/o. Narsampet Village and  
Mandal, Warangal Rural District .. Respondent



**The Court made the following:**

***THE HON'BLE SRI JUSTICE P. NAVEEN RAO*****CIVIL REVISION PETITION No.4160 OF 2017****ORDER:**

Heard Sri P. Kamalakar, learned counsel for the petitioners, and Sri S. Rahul Reddy, learned counsel for the respondent.

2. Plaintiff, the respondent in this C.R.P., filed O.S.No.65 of 2012 on the file of the IV Additional District Judge, Warangal, praying to grant a decree of specific performance against the sole defendant. Subsequently, he filed I.A.No.601 of 2013 seeking to implead the 2<sup>nd</sup> respondent in the said I.A. as the 2<sup>nd</sup> defendant in the suit. Plaintiff stated that the defendant sold the property to the 2<sup>nd</sup> respondent in the I.A., and he, being the subsequent purchaser, is a necessary and proper party to the suit, and for proper adjudication of the suit claim, he should be impleaded as 2<sup>nd</sup> defendant. This application was opposed by the sole defendant and the proposed 2<sup>nd</sup> defendant. They contended that as the plaintiff failed to fulfill the terms of the original agreement of sale of the year 2010, the defendant sold the property to the 2<sup>nd</sup> respondent in the I.A., in the year 2011, much before institution of the suit. However, having regard to the contention of the plaintiff that the 2<sup>nd</sup> respondent in the I.A. is the subsequent purchaser, the trial Court allowed the said I.A., impleading him as the 2<sup>nd</sup> defendant in the suit.

3. This revision is preferred by the defendant in the suit and the 2<sup>nd</sup> respondent in I.A.No.601 of 2013, who was also impleaded as the 2<sup>nd</sup> defendant.

4. Learned counsel for the petitioners sought to contend that the trial Court erred in allowing the petition on the assumption that the 2<sup>nd</sup> petitioner herein purchased the property during the pendency of the suit and the order is liable to be set aside on that ground alone.

5. By placing reliance on the judgment of this Court in **G. Padmavati v. G. Balraj and another**<sup>1</sup>, learned counsel for the respondent submits that though the trial Court committed error in holding that purchase was made *pendent lit* in a suit for specific performance of agreement of sale, the subsequent purchaser is a necessary and proper party. According to learned counsel, if decree of specific performance is granted in his favour, in the absence of subsequent purchaser, the plaintiff would have difficulty in enforcing the decree. He would submit that merely on the ground that the trial Court erred in observing that the purchase was made during the pendency of the suit, the order under revision need not be set aside and it can still be sustained.

6. The facts on record are not in dispute. The plaintiff as well as the defendant as originally arrayed and the impleaded defendant have categorically stated in their respective affidavits that the sale transaction between the petitioners took place in the year 2011 i.e., much before the institution of the suit. Therefore, to that extent, the trial Court erred in observing that the 2<sup>nd</sup> petitioner herein purchased the property during the pendency of the suit.

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<sup>1</sup> 1999 (1) ALT 152

7. However, the matter does not rest there. As held by this Court in **G. Padmavati** (supra), in a suit for specific performance, the subsequent purchaser, even if such purchase was made prior to the institution of the suit, is a necessary and proper party. I am in agreement with the view taken by this Court in the above cited case. Having regard to the same, the order of the trial Court in allowing the application to implead the 2<sup>nd</sup> petitioner herein as 2<sup>nd</sup> defendant in the suit need not be set aside on the sole ground that the trial Court erred in observing that the sale transaction between the petitioners herein took place during the pendency of the suit. Thus, though the reason assigned by the trial Court in allowing the petition is not valid, following the principle laid down by this Court in **G. Padmavati** (supra), this Court is of the opinion that the 2<sup>nd</sup> petitioner herein, the 2<sup>nd</sup> respondent in the subject I.A., being the subsequent purchaser, and as the plaintiff is seeking enforcement of specific performance of agreement of sale dated 13.05.2010, he is a necessary and proper party to the suit.

8. The Civil Revision Petition is accordingly disposed of. However, it is open to the respective parties to make submissions as available in law in the pending suit and observations made herein are only for the purpose of consideration of this revision. There shall be no order as to costs.

Miscellaneous Petitions, if any, pending in this Civil Revision Petition shall stand closed.

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**P. NAVEEN RAO, J**

Date: 17.11.2017

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