

THE HON'BLE DR. JUSTICE B.SIVA SANKARA RAO

CIVIL REVISION PETITION No.2026 OF 2017

ORDER:

Heard both sides and perused the grounds urged in the revision and the impugned docket order of the learned V Additional District Judge, Medak at Sangareddy, in I.A.No.175 of 2016 in I.A.No.84 of 2010 in O.S.No.122 of 2006.

2. In the suit for partition, from the final decree application in I.A.No.84 of 2010, Commissioner was appointed and division of properties affected and submitted report with compliance showing different colours of the properties to be allotted to different sharers defined in the preliminary decree by division taking into consideration of good and bad qualities with metes and bounds. After allotment, the present revision petitioners, who are third parties to the decree, claiming through one of the parties to the decree purchased the property and the amendment of the decree is sought by the plaintiffs/ decree holders 1 and 2 in I.A.No.175 of 2016 saying there is a clerical error of the typographical mistake that is to be corrected. The present petitioners filed implead petition under Order I Rule 10 C.P.C. as respondents 3 and 4. The returned docket order of the Court dated 26.10.2016 reads that I.A.No.175 of 2016 is filed for correction of final decree where clerical mistake occurred while preparing the decree in I.A.No.84 of 2010 disposed of on 29.04.2011 and the petitioners, who want to implead in I.A.No.175 of 2016 has to explain how entitled to be impleaded in the I.A. after disposal of suit and after passing of final decree, when ought to be impleaded before its disposal. It is the say

that the same was resubmitted but again returned and final order passed by the docket impugned order, saying, heard, perused the petition, since this is a typing mistake crept in at the time of preparing the final decree, this petition is allowed permitting the petitioners to rectify the mistake accordingly as prayed in the petition. It is the same now impugned in the revision.

3. Once after passing of final decree, the petitioners purchased the property from one of the respondents on record i.e., 2nd respondent and the decree to be amended, from which, when they sought to be impleaded as their right is being affected even though it is typographical mistake, the lower Court ought to have been allowed them to have their say if any, even untenable to reject rather than shunning their say, thereby, even Order I Rule 10(2) enables the Court to implead any person, where it is necessary or even a proper party, the rejection of the application and allowing amendment of decree behind their back is untenable. Thereby, the docket order of the lower Court dated 27.01.2017 is set aside and the lower Court is directed to number and decide the implead petition before deciding I.A.No.175 of 2016.

4. Accordingly, the Civil Revision Petition is allowed.

5. Miscellaneous petitions pending consideration, if any, in this case shall stand closed in consequence. There shall be no order as to costs.

DR. B. SIVA SANKARA RAO, J

Date: 21.12.2017
pab