

HON'BLE Dr.JUSTICE B.SIVA SANKARA RAO

Civil Revision Petition No.5899 of 2016

ORDER

Heard the learned counsel for the petitioner who is a third party wants to come on record through petition I.A.No.453 of 2015 on the file of the learned II Addl.Senior Civil Judge, Kakinada, as D.7 or D.8, as the case may be, in the suit (O.S.No.10 of 2009). The suit is pending between the respondents 1 to 3/plaintiffs and 4 to 9 as defendants 1 to 6 or 1 to 7 respectively, as the case may be, for the relief of declaration of title and for possession by claiming as class-1 legal heir of Simhachalam along with sons of Simhachalam by names Appa Rao and Nageshwara Rao. The petitioner's claim to come on record is with say that he is the vendee as per the sale agreement dt.06.11.2002 obtained from one Medisetty Sridevi-D.2 and he is going to file suit for specific performance and he came to know that the D.2 in collusion with the D.1 created a sale which is the present suit subject matter and thus he may be impleaded as co-defendant to oppose the suit. In fact in para-8 of the order of the trial Court, it is clearly observed that the remedy of the petitioner if at all is to file suit for specific performance to the so called sale agreement in his favour and cannot be permitted for not necessary party to the suit.

The petition is filed in the year 2016. His so called agreement is of the year 2002. It is not even a possessory agreement to claim protection under doctrine of part

performance on proof of performed his part. Thus, there is nothing to interfere with the impugned dismissal order of the trial Court for nothing to show the plaintiff is either necessary or proper party to the lis.

Having regard to the above, the Civil Revision Petition is dismissed without prejudice to available rights of the petitioner to enforce the agreement.

Consequently, miscellaneous petitions, if any, pending in this Criminal Revision Petition, shall stand closed.

Date: 02.11.2017
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Dr. B. SIVA SANKARA RAO, J

