

**HON'BLE SRI JUSTICE CHALLA KODANDA RAM**

**CIVIL REVISION PETITION No.966 of 2017**

**Date 23.06.2017**

Between:

Adala Manjula Devi

... Petitioner

AND

Potluri Naga Srinivas Rao and another.

.....Respondents



**HON'BLE SRI JUSTICE CHALLA KODANDA RAM**

**CIVIL REVISION PETITION No.966 of 2017**

**ORDER:**

The order, in I.A.No. 289 of 2016, filed under Order 1 Rule 10 CPC, to implead respondent No.3 as defendant No.3 is challenged before this Court.

The suit came to be filed by the petitioner – plaintiff for cancellation of sale deed dated 30.11.2009 executed by her as it was obtained by playing fraud by defendant Nos.1 and 2. Initially, suit was filed in the year 2010. The suit is at the stage of trial. As of now, plaintiff's evidence is closed. At that stage, the present I.A came to be filed alleging that respondent No.3 - proposed defendant played crucial role in getting sale deed executed against defendant Nos.1 and 2; and, as such, he be impleaded as defendant No.3.

In the affidavit filed in support of the petition, it is asserted that respondent No.3 - proposed defendant, who is the paternal uncle of the petitioner, mislead her about the value of the property and, in her brief visit to India from USA, she was made to execute sale deed in favour of defendants Nos.1 and 2. In other words, if not at the coercion of respondent No.3 – proposed defendant, petitioner would not have sold the property in favour of defendant Nos.1 and 2. In the circumstances, the presence of respondent No.3 - proposed defendant would aid to

resolve the disputes in the suit and he is a proper and necessary party and the dismissal of I.A is not in order.

The revision is resisted by the learned counsel for respondent No.3. He would also submit that respondent No.3 - proposed defendant is not a necessary party as the dispute is in relation to the execution of sale deed in favour of respondent Nos.1 and 2; the averment, that respondent No.3 - proposed defendant had coerced the petitioner to execute the sale deed, is denied; sale deed was executed at the prevailing market value, particularly, taking into consideration that the property has vastu defects; at any rate, it would always be open to the petitioner to summon the witnesses merely to speak about execution of sale deed which is an admitted fact; and, as such, respondent No.3 - proposed defendant need not be impleaded as proposed respondent.

Having considered respective submissions, it may be noted that respondent No.3 - proposed defendant is only an attester to the sale deed executed by the petitioner in favour of respondent Nos.1 and 2. The factum of petitioner having executed the sale deed is not in dispute. In other words, the document need not be proved as the execution of document is admitted. What role respondent No.3 - proposed defendant had played; and whether there was any fraud is a matter of evidence to which the petitioner is required to adduce evidence; and, in the event, respondent No.3 -

proposed defendant is not willing to give evidence on behalf of the petitioner, it is always open to her to invoke appropriate legal provisions to examine respondent No.3 - proposed defendant or any other witnesses. This being statutory right, and there being no relief claimed against respondent No.3 – proposed defendant, there is no infirmity in the order of the Court below refusing to implead respondent No.3 as party defendant.

Accordingly, the Civil Revision Petition is dismissed.

Miscellaneous Petitions pending, if any, in this revision petition shall stand closed.

**CHALLA KODANDA RAM,J**

Date:23.06.2017  
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