

HON' BLE SRI JUSTICE C. PRAVEEN KUMAR

CIVIL REVISION PETITION No. 1883 of 2017

ORDER:

1) The present Civil Revision Petition is filed under Article 227 of the Constitution of India, aggrieved by the order dated 31.03.2017, passed in I.A.No.134 of 2013 in O.S.No.2 of 2008 on the file of the Junior Civil Judge, Sathyavedu, wherein and whereunder an application filed under Order 1 Rule 10 of C.P.C. to implead the petitioner as defendant was dismissed.

2) The facts in issue are as under:

Respondent No.1 filed the above suit against the defendants seeking permanent injunction. During pendency of the suit, the petitioner herein filed I.A.No.134 of 2013 to implead the petitioner as defendant. The averments in the affidavit filed in support of the petition would show that initially first defendant filed O.S.No.250 of 2000 seeking permanent injunction against the petitioner and his parents, which was dismissed. At the instance of first defendant, his family members filed O.S.No.240 of 2001 against the petitioner and his mother, which was also dismissed. After dismissal of the suit, the sons and daughters of the first defendant filed O.S.No.7 of 2003 seeking partition of the suit schedule property against the first defendant and the mother of the petitioner. During pendency of the suit, the mother of the petitioner died and the

petitioner and his father were brought on record as legal representatives. The said suit was decreed. Aggrieved by the same, the petitioner preferred A.S.No.10 of 2007, which was dismissed. In final decree proceedings, the defendants and their family members compromised the matter with the petitioner and sold the suit schedule property to the petitioner vide document No.233 of 2008 for a valid consideration of Rs.50,000/- . Since then he claims to be in peaceful possession and enjoyment of the said property without any interruption. The final decree petition filed by the defendants was also dismissed. Thereafter, the plaintiff filed O.S.No.2 of 2008 against the defendants. The petitioner filed I.A.No.80 of 2008 seeking his impleadment in O.S.No.2 of 2008. Since the petitioner has not filed the registered sale deed dated 20.02.2008, his application was dismissed. Aggrieved by the same, he filed C.R.P.No.2693 of 2013, which was dismissed, giving liberty to the petitioner to file fresh application before the trial Court along with relevant documents. Hence, the petitioner filed I.A.No.134 of 2013.

3) A counter came to be filed by the plaintiff stating that it is not the case that the petitioner herein attempted to interfere with his peaceful possession and enjoyment of the land. The petitioner is not necessary party as there is no grievance against him. If the petitioner has any right, title and possession over the said property, he is at liberty to file a separate suit.

4) After considering the rival submissions made, the trial Court dismissed the petition. Challenging the same, the present Civil Revision Petition came to be filed.

5) As seen from the record, earlier the petitioner along with others filed I.A.No.80 of 2008 seeking their impleadment, which was dismissed by the trial Court. Aggrieved by the same, they preferred C.R.P.No.2693 of 2013. Giving liberty to the petitioner and others to file a fresh application before the trial Court by filing all the relevant documents, this Court dismissed the said revision. After dismissal of the revision, the petitioner filed I.A.No.134 of 2013 along with the registered sale deed bearing document No.233 of 2008 executed by the defendants in his favour, stating that he purchased the suit schedule property for a valid consideration of Rs.50,000/- . It is to be noted that the plaintiff filed the above suit seeking permanent injunction. Along with the said suit, he also filed I.A.No.4 of 2017 seeking ad-interim temporary injunction. The trial Court granted ad-interim injunction in favour of the petitioner on 21.01.2008 till 08.02.2008 and subsequently the same was extended till further orders. The defendants entered their appearance in the said suit on 08.02.2008. The sale deed which were filed before the Court show that the defendants executed sale deed in favour of the petitioner on 21.02.2008. Therefore, it is clear that the defendant executed the sale deed in favour of the petitioner while the interim injunction was in force. Admittedly, the suit

is for bare injunction and the petitioner purchased the property while the interim injunction was in force in favour of the plaintiff.

6) Similar issue came up for consideration before this Court in *Major P.T.Choudary v. Mohammed Abdul Basheer Khan and others*¹. Relying upon the judgment of the Apex Court in *Sarvinder Singh v. Dalip Singh*² and taking into consideration Section 52 of the Transfer of Property Act, this Court held as under:

“The only question which needs consideration is whether a subsequent purchaser of a suit property in a suit for injunction can be added as a plaintiff. The petitioners have relied on a judgment of this Court reported in [Ramesh Chawla v. N. Sihari and Ors.](#) . In this judgment, the learned Single Judge relied on a judgment of the Supreme Court reported in [Sarvinder Singh v. Dalip Singh](#) 1996 (7) Supreme 210 : 1996 (6) SCC 50. In similar circumstances, when the defendants had dealt with the property in a pending suit, the Supreme Court held on the basis of [Section 52](#) of the Transfer of Property Act (for short "the Act"), It would, therefore, be clear that the defendants in the suit were prohibited by operation of [Section 52](#) to deal with the property and could not transfer or otherwise dealt with it in any way affecting the rights of the appellant except with the order or authority of the Court. Admittedly, the authority or order of the Court had not been obtained for alienation of those properties. Therefore, the alienation obviously would be hit by the doctrine of lis pendens by operation of [Section 52](#). Under these circumstances, the respondents cannot be considered to be either necessary or proper parties to the suit.

The revision petitions are allowed. The third parties, if feel aggrieved, can file a separate suit and this order will not come

¹ (2007) 2 ALD 675

² (1996) 6 SCC 50

in their way provided they have a cause of action. Even the findings on [Section 52](#) of the Act are the findings only restricted to the disposal of this revision and it will be open to the Court to decide, if any separate suit is filed, as to whether [Section 52](#) of the Act would operate in the facts and circumstances of the case or not. No costs.”

7) Accordingly, the Civil Revision Petition is dismissed, giving liberty to the petitioner to avail the remedies available under law. There shall be no order as to costs. As a sequel thereto, Miscellaneous Petitions pending if any in this Civil Revision Petition, shall stand closed.

19.06.2017
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C. PRAVEEN KUMAR, J