

THE HON'BLE SRI JUSTICE M.S.K.JAI SWAL

CIVIL REVISION PETITION No.5923 of 2016

ORDER:

This civil revision petition is filed against the order dated 08.08.2016 in I.A.No.58/2015 in O.S.No.35/2013 on the file of the Junior Civil Judge, Kotturu, Srikakulam District. Originally the suit was filed in the court of the Junior Civil Judge, Pathapatnam and it was numbered as O.S.No.107/2009. Subsequently, the same is transferred to Junior Civil Judge, Kottur and renumbered as O.S.No.35/2013.

Heard the learned counsel appearing for the petitioners.

I.A.No.58/2015 was filed by the petitioners/plaintiffs under Order I Rule-10 CPC to implead the proposed respondents, who are shown as respondents Nos.1 to 5 in the present revision, as defendants Nos.5 to 9 in the suit.

The contention of the **petitioners** is that the plaintiff filed the suit for injunction simplicitor and vide orders in I.A.No.280/2009 in O.S.No.107/2009, the trial court granted interim injunction on 13.07.2011, restraining the respondents/defendants on record and their men from interfering with the peaceful possession and enjoyment of the plaintiff over the suit schedule land. It is alleged that on 13.10.2011, defendants Nos.1 to 4/respondents Nos.6 to 9 herein along with 9 other villagers were found digging pits in the suit land, thereby violating the injunction orders. It is further alleged that when enquires are made, the persons who are digging the pits in the suit land have informed that they are doing so on the directions given by the government officials only, and that

they are violating the injunction orders as per the directions of the proposed respondents, who are the government officials.

Except for the so called proclamation made by defendants Nos.1 to 4 and 9 other villagers, there is nothing on record to show that the proposed respondents have anything to do with the alleged highhanded acts of the defendants and other villagers. It is not as though that the proposed respondents were physically present or were instigating the villagers to trespass into the suit land and dig pits therein. Absolutely there is no evidence or proof to show in what way the proposed respondents, who are the government officials are necessary parties to the suit, which is filed for injunction simplicitor restraining the defendants from interfering with their possession. Merely because the persons who are alleged to have violated the injunction orders claimed that they are doing so at the behest of the government officials, the government officials cannot be impleaded in a suit for injunction, as they are neither necessary nor proper parties to it. The learned trial court has properly considered the entire material on record and rightly rejected the request of the petitioners/plaintiff to implead the proposed respondents as defendants. I see no infirmity or irregularity warranting interference with the impugned order.

In the result, the Civil Revision Petition is dismissed. No order as to costs.

Pending miscellaneous applications, if any, shall stand closed in consequence.

M.S.K.JAI SWAL,J

Date: 03.02.2017
Dsr