

HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN

Civil Revision Petition No.6323 of 2017

Order:

Aggrieved by the dismissal of his application for impleadment, a third party to a suit for specific performance has come up with the above civil revision petition.

2. Heard Ms. Satyasiri Atluri, learned counsel for the petitioner.

3. The 1st respondent herein filed a suit in O.S.No.138 of 2011 on the file of the Senior Civil Judge's Court, Machilipatnam, as against the respondents 2 to 10 herein, praying for a decree of specific performance of an agreement of sale dated 05-4-1992. Interestingly, the 1st respondent pleaded in her plaint that she is in possession of the property and that her possession was protected under Section 53A of the Transfer of Property Act, 1882. But the agreement dated 05-4-1992 filed by the 1st respondent was described in the plaint to be a non-possessory agreement of sale.

4. After five years of the institution of the suit, the petitioner herein who was a third party, jumped into the fray seeking impleadment in the suit on the ground that a portion of the suit schedule property was offered to him by the plaintiff herself for sale and that he had paid a total amount of Rs.18,50,000/- to the plaintiff in the suit, under an agreement of sale dated 08-02-2011. The application for

impleadment was dismissed by the Trial Court, forcing the proposed party to come up with the above revision.

5. We do not know how the petitioner could be a necessary and proper party to a suit for specific performance filed by the 1st respondent as against the other respondents. The petitioner claims a right in respect of a portion of the suit property as against the plaintiff in the suit. The plaintiff's right is not as against the defendants in the suit. It is only if the plaintiff succeeds in her suit and gets a sale deed in her favour that the petitioner herein can work out his rights as against the plaintiff in the suit. Therefore, the dismissal of the application of the petitioner for impleadment by the Trial Court is perfectly in order. Hence, the civil revision petition is dismissed. The miscellaneous petitions, if any, pending in this revision shall stand closed. No costs.

V.RAMASUBRAMANIAN, J.

17th November, 2017.
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