

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

CIVIL REVISION PETITION No.6027 of 2017

ORDER :

This revision is filed by the petitioners/plaintiffs, aggrieved by the order dated 24.08.2017 in I.A.No.1555 of 2015 in O.S.No.25 of 2009 passed by the Senior Civil Judge, Chirala, Prakasam District.

2. The notice sent to respondent No.3 is served but failed to attend, notice sent to respondent No.2 unclaimed is a sufficient service, the track record shows notice of respondent No.1 from the door locked and on the first intimation unclaimed and hence taken as sufficient service. The track record of the notice sent to two advocates on record also filed, showing the delivery of items. Thus, sufficient service and taken as heard. Heard the learned counsel for the petitioners/plaintiffs and perused the grounds urged in the revision and the impugned order.

3. I.A.No.1555 of 2015 in O.S.No.25 of 2009 is filed by the plaintiffs to implead the proposed defendants as 2 and 3 from the alienation *pendente lite* by the sole defendant in favour of the them in the suit for declaration and consequential injunction. The order of the lower Court

impugned herein shows as per the case of the plaintiffs, sole defendant sold the property *pendente lite* by execution of a registered sale deed dated 28.07.2011 preceded by Agreement of Sale-cum-General Power of Attorney dated 12.04.2010 and it is a *pendente lite* alienation hit by doctrine of *lis pendens*, thereby, the proposed defendants are neither proper nor necessary parties. The said conclusion of the lower Court is incorrect for the reason that pending *lis*, once the suit is against whom declaration sought shown alienated in favour of the defendants nor by mere General Power of Attorney-cum-sale agreement, which does not confer any title, but, by execution of a regular sale deed subsequently and unless the proposed defendants 2 and 3 are also brought on record to bind them the alienation by defendant No.1 if at all for them to claim what are the rights, defendant No.1 got over the property, which is subject matter of the *lis* many future complications may arise. Hence, they are not only mere proper parties, but also, necessary parties.

4. Having regard to the above, the Civil Revision Petition is allowed by setting aside the order dated 24.08.2017 in I.A.No.1555 of 2015 in O.S.No.25 of 2009 passed by the Senior Civil Judge, Chirala, Prakasam District. The

petitioners/ plaintiffs are directed to approach the office of the lower Court to carry out the amendment with consequential amendment and neat copy of the plaint within 14 days from the date of receipt of copy of this order.

5. Consequently, miscellaneous petitions pending, if any, shall stand dismissed. No costs.

Dr. B. SIVA SANKARA RAO, J

Date:21-11-2017
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