

THE HON'BLE SRI JUSTICE SANJAY KUMAR

CIVIL REVISION PETITION NO.7050 OF 2017

O R D E R

This civil revision petition under Article 227 of the Constitution arises out of the order dated 30.10.2017 passed by the learned XIII Additional District and Sessions Judge, Ranga Reddy District at L.B.Nagar, in I.A.No.81 of 2015 in O.S.No.579 of 2009. The said I.A. was filed by the petitioner herein under Order 1 Rule 10 CPC seeking to implead herself as the third defendant in the suit. By the order under revision, the trial Court rejected her plea. Aggrieved, she is before this Court.

O.S.No.579 of 2009 was filed by the first and second respondents herein against the fourth and fifth respondents, the Union of India and its Defence Estate Officer at Secunderabad, for a declaration that they were the owners and possessed valid title to the suit schedule property admeasuring Ac.3.38 guntas in Sy.Nos.602 and 603 of Alwal Village, Malkajgiri Mandal, Ranga Reddy District, and to direct the defendants in the suit to deliver possession thereof to them. The first respondent/first plaintiff died during the pendency of the suit and the third respondent/third plaintiff was brought on record as her legal representative. It was in this suit that the petitioner wanted to intervene.

The petitioner marked Exs.P1 to P10 during the hearing of the I.A., while the second and third respondents/second and third plaintiffs marked Exs.R1 to R3.

The claim of the petitioner herein was that late B.Radhamma was the absolute owner and possessor of various lands, including the suit schedule property, and executed registered Will dated

02.02.1976 (Ex.P1) bequeathing the suit schedule property in favour of late S.P.Bhaskar Rao, the natural father of the petitioner. The petitioner was given in adoption to late B.Ramachander Rao, the brother of late S.P.Bhaskar Rao. Her adoptive father obtained registered General Power of Attorney dated 26.04.1976 (Ex.P2) from her natural father and pursuant thereto, he filed W.P.No.13412 of 1994 challenging the action of the revenue authorities in granting occupancy rights to the plaintiffs in this suit in relation to an extent of Acs.48.39 guntas. This writ petition was dismissed on 27.01.1999. Aggrieved thereby, Writ Appeal No.477 of 1999 was filed by late B.Ramachander Rao on behalf of himself and also his brother, late S.P.Bhaskar Rao, along with his sons. A compromise was recorded in the said writ appeal *vide* judgment dated 20.04.1999 (Ex.P5). The petitioner conceded that the plaintiffs were claiming rights over the suit schedule property by virtue of this compromise. The petitioner claimed that she filed O.S.No.87 of 2011 before the learned I Additional District Judge, Ranga Reddy District, against her brother, B.Narsing Rao, who was also adopted by late B.Ramachander Rao, and his sons for partition of various properties and the said suit was pending consideration. The petitioner stated that late S.P.Bhaskar Rao, who died on 31.01.2010, executed Will dated 18.07.2009 (Ex.P3) bequeathing the properties which fell to his share, under the Will of late B.Radhamma, in her favour. She asserted that it was only after the death of late S.P.Bhaskar Rao that she came to know of the details of the compromise entered into on his behalf by his brother, late B.Ramachander Rao. She sought to assail the said compromise on the ground that late B.Ramachander Rao had no

authority to enter into such a compromise and asserted that the same was vitiated by fraud. She stated that she filed a review petition in relation to the judgment dated 20.04.1999 in Writ Appeal No.477 of 1999 and the same is pending. As the present suit claim of the plaintiffs was based on the said compromise, she stated that the same could not be accepted when her review petition was still pending consideration in relation to her challenge to the compromise recorded in Writ Appeal No.474 of 1999. She claimed that she was a necessary party to the suit and would be in a position to place all the relevant facts before the Court, which were suppressed by the plaintiffs.

The second and third respondents herein, the second and third plaintiffs in the suit, filed their counter contesting this plea. Therein, they pointed out that late S.P.Bhaskar Rao never disputed the right of his brother and GPA Holder, late B.Ramachander Rao, to enter into a compromise. According to them, he accepted it and also made a mention of the said compromise in his Will dated 18.07.2009, which is now relied upon by the petitioner. They asserted that the petitioner, who claimed title under the said Will, could not plead anything contrary to its contents. They disclaimed knowledge of any review petition having been filed in relation to the compromise recorded *vide* the judgment in W.A.No.474 of 1999. They asserted that the petitioner was not a necessary party to the suit proceedings.

Sri K.Rama Subba Rao, learned counsel for the petitioner, does not dispute that the suit schedule property in O.S.No.579 of 2009 tallies with the extent that fell to the share of the plaintiffs therein in terms of the compromise recorded by this Court *vide* the

judgment dated 20.04.1999 in W.A.No.477 of 1999. He would however state that as the review petition is still pending consideration before this Court in relation to the said compromise, the plaintiffs cannot seek any relief on the strength thereof. He would further state that the plaintiffs suppressed various material facts which need to be brought to the notice of the trial Court while considering the suit claim.

Per contra, Sri Bodduluri Srinivasa Rao, learned counsel on caveat for the third respondent/third plaintiff, would point out that the suit is directed against the Union of India and its Defence Estate Officer and that no purported interest of the petitioner comes into the picture at all. He would further state that once the petitioner admitted that she claimed rights under the Will dated 18.07.2009 executed by late S.P.Bhaskar Rao, she could not turn around and disclaim the acknowledgment therein made by the testator of the very compromise which she now seeks to assail.

Perusal of the record reflects that no mention is made of the number of the review petition which is stated to be pending in W.A.No.474 of 1999. It is also not in dispute that late S.P.Bhaskar Rao acknowledged the said compromise in his Will and the petitioner is claiming rights thereunder. The suit prayer is directed only against the Union of India and its Defence Estate Officer at Secunderabad. Admittedly, the petitioner is yet to succeed in her alleged challenge to the compromise. The pendency of the partition suit filed by her is of no significance in so far as the present litigation is concerned.

Thus, as matters stand, the petitioner failed to establish that she is either a necessary or at least a proper party to the suit. It is

for the Union of India and its Defence Estate Officer, the defendants in the suit, to put forth their own case effectively before the trial Court. The petitioner has no role to play in that exercise. The order holding to this effect and non-suiting the petitioner therefore does not brook interference on any count.

The civil revision petition is devoid of merit and is accordingly dismissed. Pending miscellaneous petitions, if any, shall also stand dismissed. No order as to costs.

29th DECEMBER, 2017

PGS

SANJAY KUMAR, J.

