THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

Civil Revision Petition No.201 of 2018

ORDER:

This Civil Revision Petition, under Article 227 of the Constitution of India, by the unsuccessful petitioner-plaintiff is directed against the order, dated 05.10.2017, of the learned Principal District Judge, Nalgonda, passed in IA.No.407 of 2017 in OS.No.47 of 2015 filed under Order I Rule 10 (2) of the Code of Civil Procedure, 1908, ['the Code', for short] requesting to permit the plaintiff to bring on record the proposed 2nd respondent as party 2nd defendant to the suit.

2. I have heard the submissions of *Smt. K. Annapurna Reddy*, learned counsel appearing for the plaintiff/revision petitioner. It is represented that notices taken to the two available addresses of the 1st respondent/defendant were returned unclaimed. Though the 2nd respondent/proposed 2nd defendant/ Mandal Revenue Officer, Yadagirigutta Mandal, is served with notice, none appeared for him and there is no representation for the said respondent. I have perused the material record.

3. The parties shall be hereinafter referred to as the plaintiff, the defendant and the proposed defendant for convenience and clarity.

4. To begin with, it is to be noted that the plaintiff brought the suit for declaration to declare that the notice of termination, dated 19.03.2015, issued by the defendant as null and void. The defendant having filed written statement is resisting the suit. During the pendency of the suit, the plaintiff filed the afore-stated interlocutory application for impleadment of the proposed defendant as party 2nd defendant. The proposed defendant filed counter affidavit and resisted the application. On merits and by the orders

impugned in this revision, the Court below dismissed the petition of the plaintiff. Hence, the plaintiff is before this Court.

5. The case of the plaintiff in support of the afore-stated request, in brief, is this: - 'As per the terms of the agreement, dated 30.03.2013, about Ac.500.00 guntas was secured by the plaintiff. The plaintiff and the defendant entered into a joint venture agreement, dated 10.02.2015, and agreed to contribute the land admeasuring Ac.200.00 guntas in Sy.Nos.272, 273, 274, 275, 276, 367, 368, 369, 370, 371, 372, 373, 375, 266, 374, 264, 267, 366, 269, 279, 263, 388, 389 & 390 situate at Jangampally revenue, Rallanjangaom village, Yadagirigutta Mandal, Nalgonda District, as an initial contribution for development. The defendant contributed the land admeasuring Ac.144.00 guntas situate at Jangampally revenue, Rallanjangaom village, Yadagirigutta Mandal, Nalgonda District; and, the plaintiff agreed to contribute about Ac.60.00 guntas in Sy.Nos.272, 273, 274, 275, 276, 367, 368, 369, 370, 371, 372, 373, 375, 266, 374, 264, 267, 366, 269, 279, 263, 388, 389 & 390 situate at Jangampally revenue, Rallanjangaom village, Yadagirigutta Mandal, Nalgonda District. The afore-said agreement, dated 10.02.2015, shall be in force for a period of three (03) years, that is, till 09.02.2018. It was also agreed that on expiration of the term, the same shall be automatically renewed for a successive period of one year. However, as regards the termination of agreement, it was specifically mentioned that 30 days prior notice in writing has to be issued by either party before the completion of initial term or term of renewal. The said term makes it clear that if any of the party wants to terminate the agreement, such party should give a written notice at-least 30 days prior to the expiration of the term of the agreement, that is, 09.02.2018, or subsequent renewal. Despite the said term, the defendant mischievously and deliberately issued notice of termination, on 19.03.2015. The plaintiff transferred the lands referred to in the agreement worth about Rs.2.00 Crores. The defendant, inspite of *status quo* orders, dated 28.04.2015, of the Court,

sold more than 50% of the said land to different persons and violated the said orders. The defendant also sold the land admeasuring Ac.26.35.5 guntas in favour of M/s.Incredible India Projects Pvt.Ltd., under a registered sale deed, dated 27.06.2015, bearing document no.8094 of 2015. The defendant further sold land admeasuring Ac.40.02.25 guntas under a registered sale deed, dated 20.07.2015, bearing document no.10123 of 2015. Thus, the defendant committed violation of the orders and is liable to be punished under Order XXXIX Rule 2A of the Code for disobedience of the Court directions. In this connection, the proposed defendant being the Mandal Revenue Officer is a necessary party to the suit as he may at any time effect mutation of the said properties in the name/s of the purchasers; and, if, the same is done, the plaintiff will be put to irreparable loss and injury. Hence, the present application is filed.'

6. The case of the proposed defendant as stated in the counter affidavit, in brief, is this:

As per the material available in the office and as per the registered document bearing no.8094 of 2015, dated 27.06.2015, and document bearing no.10123 of 2015 dated 20.07.2015, M/s.Incredible India Project Pvt.Ltd has purchased the plots to an extent of Ac.66.37 ¾ guntas in Sy.Nos.272, 273, 269, 276, 263, 279, 267, 366, 371, 373, 337, 370, 368, 369, 372, 388, 389, 390, 377, 366 situate at Jangampally village of Yadagirigutta Mandal from the defendant. There is a *status quo* order, dated 28.04.2015, of the learned V Additional District Judge, Bhongir, in IA.No.62 of 2015 in OS.No.47 of 2015. M/s.Incredible India Project Pvt.Ltd., filed an application in Form-6A for implementation of the above said registered sale deeds. Thereafter, as per the due procedure, notices were issued to both the parties viz., M/s.Incredible India Project Pvt.Ltd., and K. Annapurna Reddy, advocate, on behalf of the plaintiff; and, on coming to know of the fact that a case is pending in the Court of V Additional District Judge, Bhongir, no steps were taken for implementation of the above mentioned registered sale deeds in favour of the applicant. Action will be taken on the outcome of the judgment from the Court. Therefore, the petition may be dismissed with costs.

7. At the hearing, learned counsel for the plaintiff reiterated the contentions of the plaintiff and further submitted as follows:

The trial Court erred in holding that as the proposed defendant is a Government servant no relief can be sought against him. The trial Court also erred in holding that no cause of action has arisen against the proposed defendant. The trial Court failed to observe that the proposed defendant issued a notice to the plaintiff informing him to appear in the enquiry before the officer. The trial Court ought to have considered that inspite of the *status quo* orders the defendant sold the property to third parties and that if the petition is dismissed it would encourage and aid the process of mutation of the property in the names of the purchasers and that in such circumstances nothing survives for adjudication in the suit. Hence, it is necessary that the proposed defendant be impleaded in the suit. The trial Court ought to have noticed that the plaintiff was called upon to attend the proceedings before the Tahasildar and, that, therefore, it is necessary to implead the said Tahasildar/proposed defendant in order to make him stop from further proceeding in the matter and maintain *status quo* as on the date of filing the suit. The trial Court ought to have observed that the defendant filed a criminal case (FIR.No.133 of 2015) against the plaintiff with false allegations. The trial Court ought to have appreciated the contention of the plaintiff that if the plaintiff loses in the interlocutory application, the defendant would take advantage of the same and would seek mutation of the properties. The trial Court failed to observe that since the proceedings before the proposed defendant are pending, no prior notice under Section 80 of CPC to the proposed defendant would be required though he is a Government servant/officer.

8. I have given earnest consideration to the facts and submissions.

9. The suit is filed assailing the termination notice, dated 19.03.2015, as null and void, *inter alia,* stating that the cause of action for the suit arose on the date of agreement of sale, that is, 30.03.2013, and on the date, 10.02.2015, on which the joint venture agreement was said to have been entered into. According to the plaintiff-petitioner herein, a *status quo* order was granted in an Interlocutory Application in the subject suit and that despite such order certain alienations were made and that attempts are being made for mutation of the properties in the revenue records in the names of such purchasers and that if such mutations are allowed to be made the suit would become infructuous and, therefore, the proposed defendant/Tahasildar, who is the officer competent to make mutations, is a necessary and proper party more particularly as he has called upon the plaintiff for an enquiry in that regard. However, as on today, no mutation of properties was affected is undisputed. In-fact, the Tahasildar in his counter filed before the trial Court has stated that no steps have been taken for implementation of the registered sale deeds and that action will be taken depending upon the judgment of the Court in the suit. Therefore, merely on the apprehensions that the mutation of the property in revenue records, if any affected, would affect the rights of the plaintiff, the impleadment of the Tahasildar is being sought, but not on any *bona fide* cause or crystallized cause of action against the said public servant. The purchaser/s of the properties is/are not parties to the suit. Further, the Tahasildar/proposed party clearly stated in his pleading that having come to know that the suit is pending, no further action on the application of the purchaser is taken and that action would be taken as per the Judgment of the Court in the said suit. Therefore, on the analysis of the facts, it appears that the request for impleadment of the Tahasildar as party defendant to the suit is not *bana fide* and such a request is misconceived and is without any merit. In that view of the matter, this Court finds that the trial Court is justified in

dismissing the petition of the plaintiff and that the order impugned does not brook interference for all the aforestated reasons.

10. In the result, the Civil Revision Petition is dismissed. No costs.

Miscellaneous petitions, if any, pending in this revision shall stand closed.

M. SEETHARAMA MURTI, J

06.04.2018
Vjl