

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CIVIL REVISION PETITION No.1681 OF 2017

ORDER:

This Civil Revision Petition is filed under Article 227 of the Constitution of India assailing the order dated 10.02.2017 passed in I.A.No.806 of 2012 in O.S.No.110 of 2009 on the file of VIII Additional District Court, Krishna at Vijayawada.

2. Heard Sri K.Vinay Kumar, learned Senior Counsel, representing Sri Y.Ramatirtha, learned counsel for the petitioner, and Sri G.Ramachandra Reddy, learned counsel for the respondent.

3. The facts leading to filing of the present revision are briefly as follows:

The petitioner filed O.S.No.110 of 2009 on the file of VIII Additional District Court, Krishna at Vijayawada, against the defendant for specific performance of agreement of sale dated 20.05.2006. During pendency of the suit, the son of the defendant filed I.A.No.806 of 2012, under Order XXXII Rule 3 read with Section 151 of C.P.C., to appoint him as a guardian of the defendant. The petitioner filed a counter *inter alia* contending that the petition is not maintainable either on facts or in law. The trial Court, after affording a reasonable opportunity to both parties, allowed the petition. Hence, the revision.

4. The point that arises for consideration is:

“Whether there is any illegality, irregularity or impropriety in the impugned order.”

5. It is an admitted fact that the petitioner filed O.S.No.110 of 2009 against the sole defendant by name B.Venkata Swamy for specific performance of the agreement of sale. During pendency of the suit, the petitioner filed I.A.No.1085 of 2016, under Order I Rule 10 C.P.C. to implead the proposed parties as defendant Nos.2 and 3. The trial Court allowed the petition on 23.02.2017 permitting the proposed parties i.e., Indiramma and Purnachandra Rao to implead as defendant Nos.2 and 3. Indiramma is the wife and Purnachandra Rao is the son of first defendant. During pendency of the suit, the second defendant in the suit filed G.O.P.No.188 of 2011 on the file of the Principal District Court, Nellore, to appoint him as a guardian of his father i.e., first defendant. Basing on the orders passed in G.O.P.No.188 of 2011, the respondent filed I.A.No.806 of 2012 seeking permission of the Court to represent the suit by him on behalf of the first defendant.

6. It is the case of the respondent that the first defendant is a mentally retarded person. No doubt the respondent is defendant No.3 in the main suit. Basing on the material available on record, the trial Court passed the impugned order by taking into consideration the *inter se* relationship of the parties as well as the nature of the suit. I have carefully perused paragraph Nos.13 and 15 of the impugned order. A perusal of the same clearly reveals that the trial Court has taken every care to protect the interest of both parties. The trial Court has assigned reasons much less cogent and valid reasons while allowing the petition. I am fully endorsing with the findings recorded by the trial Court. There is no illegality, irregularity or impropriety in the impugned order

warranting interference of this Court while exercising the jurisdiction under Article 227 of the Constitution of India.

7. In the result, the Civil Revision Petition is dismissed. There shall be no order as to costs.

8. Consequently, Miscellaneous Petitions, if any, pending in this Civil Revision Petition shall stand closed.

T.SUNIL CHOWDARY, J

Date: 28.11.2018
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