

HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

CIVIL REVISION PETITION No.1282 of 2018

ORDER:

This petition is filed by the petitioner/proposed plaintiff No.7 aggrieved by the order dated 14.2.2017 in I.A.No. 71 of 2018 in O.S.No. 80 of 2006 on the file of Junior Civil Judge, Wanaparthi, dismissing the application filed under Order 1 Rule 10(2) CPC seeking to implead him as plaintiff No. 7 in the suit.

Notice on respondents was ordered.

Having regard to the nature of the order, this Court is of the view that the petition can be disposed of without insisting for the presence of the respondents.

The submission of learned counsel for petitioner is that the petitioner, pending suit, purchased some of the suit properties covered by S.No. 380/A1, 380/A4, 380/A5, 380/A6, 381/A1, 381/A4, 381/A5 and 381/A6 admeasuring Ac. 0.18 gts, 0.20 gts, 0.18 gts, 0.19gts, 0.22 gts, 0.20 gts, 0.22gts and 0.21 gts respectively from plaintiffs 1 to 6 under registered sale deed vide document No. 7422 of 2007. Further, he was examined on behalf of plaintiffs as PW-3 and he deposed about the factum of purchasing a part of the suit land. On the completion of their evidence, plaintiffs are not taking interest to further prosecute the suit though the matter is now coming up for arguments and in that view of the matter, the presence of the petitioner as party plaintiff is

essential for proper disposal of the matter. However, the trial Court dismissed the petition. He, thus, prayed to allow the petition and permit him to come on record as plaintiff No. 7.

A perusal of the order impugned would show that the trial Court has observed that the suit was for perpetual injunction and execution of sale deed in favour of petitioner/PW-3 was already brought to the notice of the Court on 11.9.2008 during the cross examination of PW-1 and also by way of examining the petitioner independently as PW-3 and in that view of the matter, the trial Court was sufficiently made known about the factum of the petitioner purchasing the part of the suit property. The trial Court further observed that the petition, however, was filed at a belated stage when the matter was at the stage of hearing the arguments and particularly when the written arguments were filed on behalf of plaintiff. It thus held, the presence of the petitioner as additional plaintiff at a belated stage will not give extra thrust for effective disposal of the suit and accordingly dismissed the petition.

This Court on scrutiny, finds the order impugned does not suffer any perversity. Admittedly, the petitioner is a purchaser *pendenti lis* and the factum of his purchase of the part of suit property was sufficiently brought to the notice of the trial Court by way of cross-examination of PW-1 as well as the examination of the petitioner as independent witnesses i.e., PW-3.

Be that as it may, Section 52 of the Transfer of Property Act, 1882 though not invalidates an alienation *pendenti lis*, yet imposes the rider that the purchaser is bound by the verdict in the proceedings. In that view of the

matter, as the plaintiffs have already prosecuted the suit to the extent of the arguments, petitioner was examined as PW-3, this Court finds his presence independently as party-plaintiff will be of no additional value. The allegation that the plaintiffs have not been properly prosecuting the suit also does not appear to be correct in view of the fact that in the impugned order it has been clearly mentioned by the trial Court that the matter is now at the stage of hearing arguments and the plaintiffs have submitted their written arguments also. At any rate, the petition does not merit consideration.

Accordingly, Civil Revision Petition is dismissed. As a sequel there to, miscellaneous applications, pending if any, shall stand closed.

Date: 27.04.2018
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U.DURGA PRASAD RAO, J

