

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

C.R.P.No.1560 of 2018

ORDER:

This Civil Revision Petition is filed under Section 115 CPC assailing the order dated 21.11.2017 passed in I.A.No.417 of 2014 in O.S.No.78 of 2013 on the file of the Court of Senior Civil Judge, at Narayanpet.

2. Heard the learned counsel appearing for both the parties.
3. The facts leading to filing of the present revision are as follows:

The petitioner filed a petition under Order I Rule 10 CPC to implead him as defendant No.12 in the suit. The respondents filed counter opposing the petition. The trial Court after affording reasonable opportunity to both parties, dismissed 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?

P O I N T:

5. A perusal of the record reveals that the respondents 1 to 3 filed O.S.No.78 of 2013 on the file of the Senior Civil Judge, Narayanpet against the respondents 4 to 14 and some others, for declaration to declare them as the owners of an extent of Ac.13.21 guntas in Sy.No.125 of Tekulapally Sivar village,

Makthal Mandal, Mahabubnagar District. While pending suit, the petitioner filed I.A.No.417 of 2014 under Order I Rule 10 CPC to implead him as defendant No.12.

6. It is the case of the petitioner that he purchased part of the suit schedule property under a registered sale deed dated 19.05.2014 from respondents 13 and 14, hence, he is necessary and proper party to come on record as defendant No.12. The trial Court dismissed the petition on the sole ground that the petitioner purchased the property during pendency of the suit. The trial Court without passing a speaking order, simply dismissed the petition. While allowing or dismissing the petitions filed under Order I Rule 10 CPC, the Court has to give a specific finding whether the proposed party is having any interest or semblance of interest in the subject matter of the suit. The trial Court has to give a specific finding whether the proposed parties are necessary and proper parties and in whose absence, the Court can adjudicate the matter effectively or not. For one reason or the other, the trial Court has not given any specific finding on the above referred two aspects. If the order of the Court below is allowed to stand, certainly it would amount to miscarriage of justice.

7. At the time of arguments, both counsel submitted that the matter may be remanded to the trial Court for fresh disposal.

8. Having regard to the facts and circumstances of the case and also the submissions made by both counsel, this Court is of a considered view that it is a fit case to set aside the impugned

order and remand the matter to the trial Court for fresh disposal.

9. In the result, the Civil Revision Petition is allowed setting aside the orders dated 21.11.2017 passed in I.A.No.417 of 2014 in O.S.No.78 of 2013 on the file of the Court of Senior Civil Judge, at Narayanpet, and remanding the matter to the trial Court for fresh disposal. The learned Senior Civil Judge, Narayanpet, is hereby directed to dispose of I.A.No.417 of 2014 in O.S.No.78 of 2013 afresh after taking into consideration the scope of Order I Rule 10 CPC. As a sequel, miscellaneous petitions pending, if any, shall stand closed.

Dt:08.10.2018
Rns

T.SUNIL CHOWDARY, J

