

HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

CIVIL REIVISION PETITION No.1550 OF 2018

ORDER:

This civil revision petition is filed aggrieved by the order dated 27.12.2017 in I.A.No.405 of 2017 in O.S.No.126 of 2014 on the file of learned Senior Civil Judge, Huzurnagar, dismissing the petition filed by the petitioner, who is a third party, to implead him as defendant No.2 in the main suit.

2. O.S.No.126 of 2014 (Old O.S.No.147 of 2007 on the file of Senior Civil Judge, Miryalaguda) was filed by the 1st respondent herein seeking a decree for recovery of land to an extent of Acres 3.00 in Survey Nos.471/2 and 471/3 against the 2nd respondent herein. The 2nd respondent, while contesting the suit, seems to have filed a counter claim for Acres 2.01 guntas and it is informed that the said suit is in the stage of arguments now. When the matter was in the stage of cross-examination of DWs.1 to 4, the petitioner herein filed I.A.No.405 of 2017 seeking to implead himself as 2nd defendant on the ground that she purchased Acres 2.01 guntas in Survey Nos.471/1 and 471/3 from plaintiff and defendant in O.S.No.126 of 2014 and that she paid the entire sale consideration to the 2nd respondent/defendant and therefore, he is a necessary party to the suit. The respondents herein opposed the said petition. The trial court having observed that the 2nd respondent/defendant denied

about the execution of the agreement of sale propounded by the petitioner and that the petitioner has not filed even photocopy of the alleged agreement to sell and the presence of the petitioner in the said suit will not help determining the facts or law involved in the said suit, accordingly, dismissed the said petition.

Hence, the present civil revision petition.

3. Heard both sides.

4. On careful perusal of the impugned order, it is seen that the petitioner's claim is that she purchased Acres 2.01 guntas of the land under agreement to sell from both the parties i.e., plaintiff and defendant in O.S.No.126 of 2014 and that she paid the entire sale consideration to 2nd respondent/defendant and they have not been coming forward to execute the sale deed and therefore, she is necessary party in O.S.No.126 of 2014.

5. The 2nd respondent/defendant denied the execution of agreement to sell and receiving of the sale consideration. It is also seen that the petitioner has not even produced the photocopy of the alleged agreement to sell before the lower court for its verification. The suit O.S.No.126 of 2014 is fought between the parties altogether on different issues. Whereas, the plaintiff therein filed the suit for recovery of possession of Acres 3.00, the 2nd respondent/defendant

opposed said suit and in turn filed a counter claim for Acres 2.01 guntas and the suit, it is informed, now coming for arguments. In this backdrop, the presence of the petitioner who comes up with altogether a different claim that she allegedly purchased Acres 2.01 guntas from both the parties will not in any way help determine the suit O.S.No.126 of 2014. The petitioner has to independently fight her case and establish her rights. It is informed that the petitioner has already filed O.S.No.89 of 2017 on the file of learned Senior Civil Judge, Huzurnagar, against respondents 1 and 2 herein and said suit is pending. In that view of the matter, the presence of the petitioner in O.S.No.126 of 2014 is unwarranted. The order of the trial court does not suffer from perversity or illegality to intervene.

6. Accordingly, this civil revision petition is dismissed.

As a sequel, miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

07.09.2018
SS

U.DURGA PRASAD RAO, J