

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

C.R.P.No.94 of 2017

ORDER:

This Civil Revision Petition is filed under Article 227 of the Constitution of India assailing the order dated 19.11.2016 passed in I.A.No.485 of 2016 in O.S.No.357 of 2015 on the file of I Additional Junior Civil Judge Court, Nellore.

2. Heard the learned counsel appearing for both the parties and perused the material available on record.

3. For the sake of convenience, the parties will hereinafter be referred to as they were arrayed before the trial Court.

4. The facts leading to filing of the present revision petition, in brief, are as follows:

Respondents No.1 and 2 filed O.S.No.357 of 2015 on the file of I Additional Junior Civil Judge Court, Nellore against the third respondent to evict him from the suit schedule property. During pendency of the suit, the petitioners filed I.A.No.485 of 2016 under Order I Rule 10 CPC seeking to implead them as defendants in the main suit. The respondents filed counter opposing the claim of the petitioners. The trial Court after considering the material available on record, arrived at a conclusion that the petitioners are not entitled to come on record and consequently, dismissed the petition. Hence, the revision.

5. The point that arises for consideration is: 'Whether there is any illegality, irregularity or impropriety in the impugned order?'

6. The first petitioner is the daughter-in-law and second petitioner is the grand son of respondents 1 and 2. The second petitioner herein filed O.S.No.218 of 2005 on the file of I Additional Senior Civil Judge Court, Nellore, for partition of suit schedule property against respondents 1 and 2. After full-fledged trial, the trial Court decreed the suit in part by granting preliminary decree. Feeling aggrieved by the judgment and decree of the trial Court, the first respondent preferred A.S.No.68 of 2010 on the file of IV Additional District Court, Nellore. The first appellate Court allowed the appeal. The petitioners preferred S.A.No.168 of 2015 on the file of this Court. Learned counsel for the petitioners submitted that the second appeal is pending on the file of this Court.

7. Respondents 1 and 2 filed O.S.No.357 of 2015 against the third respondent for evicting him from the suit schedule property. In a suit for eviction, the Court has to decide whether there is a jural relationship of landlord and tenant between the parties. The case of the petitioners is that they are collecting the rent from the third respondent, therefore, they are entitled to come on record. While deposing evidence in O.S.No.218 of 2015, the first petitioner admitted that the third respondent is collecting rents unauthorisedly. This itself indicates that the

dispute is between the father-in-law and daughter-in-law, i.e. first petitioner and first respondent.

8. It is needless to say in tenancy matters, the Court cannot decide the title of the parties. While passing orders in Order I Rule 10 CPC petition, the Court has to see if the proposed parties are permitted to come on record, whether the same will change the nature of the suit or not. The trial Court basing on the decisions in **Sriram Pasricha Vs.Jaganath**¹ and **Singh Vs. Asharfi Lal**², arrived at a conclusion that the title of the parties cannot be gone into in a suit filed for eviction of the tenant at the instance of third parties. If the proposed parties are permitted to come on record, the Court has to consider the title of the petitioners and the first respondent, which is not permissible under law. If the proposed parties are permitted to come on record, the very nature of the suit will change. Moreover the parties can agitate their rights in S.A.No.168 of 2015. The trial Court considered the scope of Order I Rule 10 CPC in the light of the facts pleaded by both parties.

9. Viewed from any angle, the petitioners are not necessary and proper parties to the proceedings. The trial Court has assigned reasons much less cogent and valid reasons to its findings while dismissing the petition. I am fully endorsing with the findings recorded by the trial Court. There is no illegality, irregularity or impropriety in the orders of the trial Court warranting interference of this Court while exercising

¹ 1976(4) SCC 184

² 1995(6) SCC 580

the jurisdiction under Article 227 of the Constitution of India.

Hence, the petition is liable to be dismissed.

10. In the result, the Civil Revision Petition is dismissed.

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

T.SUNIL CHOWDARY, J

27.11.2018

Rns

