

THE HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

CIVIL REVISION PETITION No.1817 OF 2018

ORDER:

This revision petition is filed by the petitioner/first defendant aggrieved by the order, dated 09.02.2018 in I.A.No.460 of 2016 in O.S.No.7 of 2017 passed by the learned Senior Civil Judge at Suryapet allowing the application filed by the respondent/plaintiff under Order I Rule 10 read with Section 151 of Code of Civil Procedure (CPC) seeking permission to implead respondents 12 and 13 as defendants 12 and 13 in the main suit and to make consequential amendments.

The plaintiff filed the main suit against the defendants 1 to 10 seeking relief of declaration of title and recovery of possession in respect of land of an extent of Acs.1.00 guntas in Survey No.193 of Pillalamarry Village. When the matter was coming up for cross-examination of D.Ws.2 and 3, at that stage, the plaintiff filed I.A.No.460 of 2016 to implead the respondents 12 and 13 as proposed defendants 12 and 13 on the plea that they allegedly purchased part of the suit property from the first defendant under unregistered document. The first defendant as well as proposed parties filed their counter and opposed the application. The contention of the respondents 12 and 13 was that respondent No.12 purchased Acs.0.18 guntas of land in Survey No.193/E1 from the registered owner one Tegala Venkanna, who is not a party to the suit. In support of the contention of the respondents 12 and 13, they filed a certified copy of the sale deed, dated 23.03.2013 vide document No.3596 of 2013. While so, the counter averments of the first respondent/first defendant was that he sold part of the suit land to respondent No.12 long back under registered sale deed. In respect of his contention, first respondent did not file the alleged registered sale deed between him and respondent No.12.

The trial Court observed that the plaintiff filed a Memo along with the certified copy of the registered sale deed, dated 18.08.2011, which showed that the first respondent/first defendant alienated Acs.0.18 guntas of land in Survey No.193/E1 in favour of one Tegala Venkanna from whom, respondents 12 and 13 purchased the property under registered sale deed, dated 23.03.2013. The trial Court, thus, observed that during the pendency of the suit, the first respondent/first defendant executed the registered sale deed for Acs.0.18 guntas of land in favour of Tegala Venkanna, who in turn by way of a registered sale deed sold the property to respondents 12 and 13. Therefore, the request of the petitioner/plaintiff to implead respondents 12 and 13 is a genuine one since respondents 12 and 13 are subsequent purchasers of part of the suit property. On the said observation, the trial Court held that respondents 12 and 13 are necessary parties to the suit and hence, allowed the application and permitted the plaintiff to implead respondents 12 and 13 as defendants 12 and 13. Aggrieved, the first defendant filed the instant petition.

Learned counsel for the petitioner/first defendant sought to project that the suit itself is barred by limitation and therefore, the impleadment of respondents 12 and 13/proposed defendants 12 and 13 is also barred by limitation. However, at this stage, the learned counsel for the petitioner could not substantiate how the suit is barred by limitation. The next contention of the learned counsel for the petitioner is that the plaintiff has to independently establish his claim without depending on the weakness, if any, in the case of the defendants. There is no demur with regard to the said principle. In a suit for declaration and injunction or possession, the plaintiff has to establish his case without depending on the weakness, if any, of the defendant's case. However, insofar as the present revision is concerned, the said principle has no application because we are not concerned with the merits or demerits in the main suit. Rather this Court is scrutinizing the correctness of the

impugned order passed by the trial Court in the application filed under Order I Rule 10 CPC. So far as the impugned order is concerned, the trial Court having observed that the first defendant has sold part of the suit property pending *lis* in favour of the Tegala Venkanna, who in turn sold the said property to respondents 12 and 13 and therefore they are necessary parties to the suit, allowed the application and permitted the petitioner to implead them as parties. I do not find any irregularity or perversity in the order impugned. Hence, there are no merits in the civil revision petition.

The Civil Revision Petition is dismissed. Consequently, miscellaneous petitions, if any pending, shall stand closed. There shall be no order as to costs.

11.06.2018
pln



U.DURGA PRASAD RAO, J