

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

Civil Revision Petition No.2341 of 2018

ORDER:

Heard both sides.

2. Defendant No.1 is the revision petitioner impugning the order in I.A.No.389 of 2017 in the pending suit O.S.No.90 of 2011 on the file of the learned V Additional District Judge, Nellore, SPSR Nellore District. It is a suit for bare injunction maintained by two plaintiffs against three defendants.

3. Respondent No.1 to the revision petition maintained I.A.No.389 of 2017 to implead him as *pendenti lite alienee* to part of the plaint schedule property from plaintiff No.2 and sought to be impleaded. The plaintiffs 1 & 2 did not object the impleadment. It is defendant No.1 that opposed among the defendants 1 to 3 for said impleadment. The lower Court impleaded invoking Order 1 Rule 10 CPC by referring to the judgment in **V.Narayana Reddy v. Smt. Ani Narayanan** [2009 (4) ALT 9] as to the impleadment object is to avoid the multiplicity of proceedings.

3. The contentions in the grounds of revision mainly are the plaintiff No.3 is neither necessary nor proper party and the lower Court did not properly advert and the impugned order is perse illegal and vitiated by material irregularities and lower Court failed to consider the factum that the so-called purchase was dated 22.10.2011 whereas the impleadment petition filed was six years later in 2017 with laches and thereby cannot be impleaded and the impugned order is unsustainable.

4. So far as the *pendenti lite alienee* is concerned, same is covered by Order XXII Rule 10 CPC. The very provision speaks that in other cases of an assignment, creation or devolution of any interest during the pendency of a suit, the suit may, by leave of the Court, be continued by or against the person to or upon whom such interest has come or devolved. The said provision only enables the continuation of the proceedings with that limited right by stepping into the shoes of the party to the suit from whom the right by alienation claims. It no way creates a fresh cause of action to the party sought to be impleaded much less to raise any new pleadings but for to give evidence.

5. Having regard to the above, the impleadment of the respondent No.1 as co-plaintiff from the order no way suffered with any irregularity or impropriety to interfere, but for to clarify of not entitled to make out any fresh case with any fresh cause of action or with any independent claim, but for to claim the right of *pendenti lite* alienor by stepping into the shoes of the original plaintiffs of whatever on the rights they sue the defendants as being entitled to the pending litigation, but for to adduce any evidence with reference to the *pendenti lite* alienation as the order of injunction runs with the land and the contention contra is untenable.

Accordingly, this Civil Revision Petition is disposed of. Consequently, miscellaneous petitions pending, if any, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

19.09.2018
MVA