

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CIVIL REVISION PETITION No. 2899 of 2018

O R D E R:

1) The present Civil Revision Petition is filed under Section 115 of C.P.C., aggrieved by the order dated 01.03.2018, passed in E.A.No.12 of 2018 in E.A.No.177 of 2011 in E.P.No.4 of 2011 in O.S.No.14 of 2006 on the file of the Senior Civil Judge, Razole, wherein an application filed by the petitioner/3rd party under Order 1 Rule 10 and Section 141 of C.P.C. seeking to implead him as respondent No.3 in E.A.No.177 of 2011, was dismissed.

2) The averments in the affidavit filed in support of the petition would show that the petitioner acquired title and possession over the schedule property under a registered sale deed 03.11.2017, executed by one Mulakonda Durga Srinivas, basing on the strength of the sale deed dated 07.11.2005, which was executed by Mallipudi Paul, who is the second respondent/D.Hr. While things stood thus, the 1st respondent herein started to put forth claim over the schedule property, which is in possession and enjoyment of the petitioner. His efforts to enquire the 2nd respondent/D.Hr as well as his vendor, went in vain. His enquiries on the said aspect revealed about the pendency of E.A.No.177 of 2011 and the same was posted for the evidence of the 2nd respondent herein. Since he is interested party

to the property, he filed the present application to implead him as 3rd respondent in E.A.No.177 of 2011.

3) A counter came to be filed by the 1st respondent denying the averments in the affidavit filed in support of the petition. It is the case of the 1st respondent that the schedule property was put in auction by the court, after following the procedure and delivered the same to him following due process of law. The petitioner and respondent Nos.2 and 3, in collusion, created the documents one after the another to knock away the schedule property. He further pleads that the petitioner has no locus standi to make any claim over the property and he is not entitled to come on record.

4) After considering the rival submissions made, the trial Court dismissed the said petition. Challenging the same the present revision came to be filed.

5) Reiterating the averments made in the affidavit filed in support of the petition, the petitioner/third party would contend that he came to know about the pendency of the litigation recently and as such he filed the present application to come on record as 3rd respondent. His case appears to be that he acquired title and possession over the plaint schedule property by way of a registered sale deed dated 08.11.2017 executed by one Mulakonda Durga Srinivas of Malikipuram basing on the strength of sale deed dated

07.11.2005 executed by Mallipudi Poul, who is the 2nd respondent/D.Hr. in E.A.No.12 of 2018 in E.A.No.177 of 2011 in E.P.14 of 2011 in O.S.No.14 of 2006. According to him, the 2nd respondent/D.Hr., acquired the title by way of sale deed dated 18.03.2010. In view of the above, it is urged that he is a necessary party to the proceedings.

6) The counter filed by the first respondent (claimant), shows that he purchased the property in a court auction. According to him, second respondent/decree holder filed E.P.No.14 of 2011 for delivery of schedule property basing on the sale deed dated 18.03.2010 said to have been executed by Court. When the Amin of the Court visited the schedule property, the men of the first respondent (claimant) objected on the ground that the property was already delivered to the first respondent through the Court. It is urged that the decree-holder suppressed the earlier proceedings initiated by the first respondent, and adopted back door method to take possession over the schedule property. Hence, pleads that when second respondent himself has no possession over the schedule property, the question of delivering the same to the petitioner would not arise. It is further stated that the alleged vendor of the petitioner viz., Mulakonda Durga Srinivas filed an application to implead himself as one of the respondents on the ground that he obtained sale deed from the second respondent, but the same was not prosecuted for the reasons

best known to him. Long thereafter, the present application came to be filed on the ground that he purchased the property from Mulakonda Durga Srinivas.

7) Having regard to the above, the a doubt arises, as to whether the petitioner purchased the property from Mulakonda Durga Srinivas, when the first respondent/claimant purchased the schedule property in a court proceeding. The claim of the decree holder also appears to have been negated, as such, there are no grounds much less valuable to implead the petitioner at this stage. Hence, I see no reason to interfere with the order passed by the trial court.

8) Accordingly, the C.R.P. is dismissed. There shall be no order as to costs. As a sequel to it, miscellaneous petitions pending if any in this C.R.P. shall stand dismissed.

JUSTICE C. PRAVEEN KUMAR

Dt:28.08.2018
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