

**HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD**

**CIVIL REVISION PETITION No.3658 of 2018**

**ORDER :**

This Civil Revision Petition is preferred by the petitioners/Defendants aggrieved by the order dated 09.01.2018 in I.A.No.396 of 2017 in O.S.No.66 of 2017 passed by the Principal Junior Civil Judge at Sathupally, Khammam District, in dismissing the application filed by them, under Order I Rule 10 r/w. Section 151 of C.P.C., seeking to dis-array them as parties/defendants to the above suit.

Heard learned counsel for the petitioners/defendants and the learned counsel for the respondent/plaintiff.

Learned counsel for the petitioners/defendants vehemently contended that the petitioners are no way concerned with the suit schedule property and they are unnecessarily implicated in the suit. It is further submitted that they are going to file their written statement to that effect. The petitioners, therefore, sought to remove their names from the array of defendants in the suit and also from the injunction petition.

On the other hand, learned counsel for the respondent/plaintiff submits that there is a *lis* pending

between the petitioners and the respondent with regard to the suit schedule property and, therefore, the petitioners were arrayed as defendants in the suit O.S.No.66 of 2017 filed by the plaintiff seeking perpetual injunction.

The petitioners have filed an affidavit stating that they are defendant Nos.1 to 4 in the suit filed by the respondent/plaintiff for ad-interim injunction. Petitioner No.1 is the absolute owner and possessor of agricultural land admeasuring Ac.1.00 in Sy.No.511A/E, in Lingapalem Village, Vemsoor Mandal, Khammam District, having boundaries of East: Nunna Satyam land, South: Mohd. Ismail Land, West: Mohammed Ismail Land, and North: Panta Kaluva. The suit land is in an extent of Ac.0.20 guntas of agricultural land in different survey numbers for different extents. Therefore, there is no conflict of interest and ownership between the petitioners and the respondent. It is further stated that the petitioners/defendants have never interfered with the peaceful possession and enjoyment of the respondent/plaintiff over the subject land. The respondent/plaintiff filed his counter stating that he filed the suit for perpetual injunction against the petitioners over the suit schedule property along with an application under Order 39 Rules 1 and 2 of C.P.C., for grant of injunction and the said application was allowed making the injunction order absolute till disposal of the main suit. It is stated that the

petitioners/defendants neither filed any appeal against the said injunction order nor filed their written statement in the suit so far. The trial Court on consideration of the pleadings has given a clear and categorical finding with regard to the fact that there is a dispute between the parties with regard to interference over the suit schedule property by the petitioners/defendants. Though the petitioners/defendants have stated that they are the absolute owners and possessors of different property than the suit schedule property, as there was alleged interference by the petitioners/defendants with the peaceful possession of the respondent/plaintiff over the suit schedule property, the defendants cannot be deleted from the array of the parties.

On a perusal of the impugned order dated 09.01.2018 passed by the trial Court, it is obvious that there is a dispute pending between the petitioners and the respondent in respect of interference with the possession over the suit schedule property. Therefore, the names of the petitioners cannot be deleted from the array of defendants. Further, in view of the doctrine of '*dominus litus*', it is for the plaintiff to choose the parties to the suit with whom there is a *lis* pending.

In the result, the Civil Revision Petition is disposed of directing the petitioners/defendants to file their written statement in the suit O.S.No.66 of 2017 and the trial Court is

directed to dispose of the suit according to law. No order as to costs.

As a sequel, miscellaneous petitions pending, if any, shall stand closed.

---

GUDISEVA SHYAM PRASAD, J

27.07.2018.  
Msr



HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

CIVIL REVISION PETITION No.3658 of 2018



27.07.2018  
Msr