

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CIVIL REVISION PETITION Nos.4181, 4289 AND 4316 OF 2017

COMMON ORDER:

All these three Civil Revision Petitions are preferred by the different plaintiffs in three different suits i.e., O.S. Nos.260 of 2012, 258 of 2012 and 256 of 2012, respectively, pending on the file of the Principal Junior Civil Judge, Khammam, Khammam District, under Article 227 of the Constitution of India, challenging the common order, dated 31.03.2017, passed in I.A. Nos.1050 of 2016, 1051 of 2016 and 1161 of 2016, respectively.

2. Respondent No.1, in these revisions, is M/s. Sri Laxmi Ranganatha Swamy Temple, Ranganayakula Gutta, Khammam, represented by its Single Trustee, Sri K. Jagan Mohan Rao, who filed the aforesaid Interlocutory Applications in the aforesaid suits and I.A. Nos.1155 of 2016 in O.S. No.238 of 2012 and I.A. No.181 of 2017 in O.S. No.233 of 2012, under Order I Rule 10 of the Code of Civil Procedure, 1908 (for short 'Code'), requesting to implead the Temple as one of the defendants in the array of defendants, on the main ground that the Temple is situated in Survey No.123, occupying half of the hillocks on western side and it is owning and possessing land in Survey No.120 and, thus, the suit schedule property shown in each of these suits constitutes part and parcel of the extent owned by the Temple.

i) According to the Trustee of the Temple, the revision petitioners, who are plaintiffs in the suits, and some others in collusion with one Pilli Chenna Krishna created sham and bogus documents and filed suits against Poojaris of the said Temple without making the Temple as party to the suit proceedings.

ii) He claims that in the year 1998-99, the then Mandal Revenue Officer, conducted inspection and, having verified the records, passed orders declaring that the said extent of land belongs to the Temple which includes the suit schedule property, and the plaintiffs claiming ownership without arraying the Temple as one of the defendants, filed the suits and, therefore, the Temple is a necessary and proper party to the suit proceedings.

3. The revision petitioners herein as sole plaintiff in the aforesaid suits and plaintiff Nos.1 and 2 in other two other suits i.e., O.S. Nos.238 of 2012 and 233 of 2012, filed the suits seeking the relief of perpetual injunction against the poojaris of the Temple, claiming that Pilli Chenna Krishna was the owner and possessor of the entire extent of Survey No.120, and they have purchased different extents under registered sale deeds, and the entire extent in Survey No.120 is Acs.9.30 guntas was purchased by the grandfather of Pilli Chenna Krishna under a registered sale deed on 12.03.1963, and after the death of grandfather, their father and their paternal uncle enjoyed the property and, thereafter, partition had taken place in O.S. No.217

of 2011 by way of Lok Adalath Settlement, and in that settlement, suit schedule property and two other plots were allotted to their shares. The extent shown in each of the suits is ranging from 216.66 square yards and 233.33 square yards.

4. The trial Court, by order, dated 31.03.2017, allowed all the aforesaid petitions by a common order, holding that the Temple is a necessary and proper party, without whose presence, the matter in controversy cannot be effectually and completely adjudicated upon. The contentions raised by both sides were considered by the trial Court and answered that the *pahani* for the year 1983-84 shows that Acs.1.02 guntas is shown as *Pot Kharab* in Survey No.120, and the remaining land of Acs.8.28 guntas is shown in the name of Pilli Chenna Krishna, and even the orders passed by the Mandal Revenue Officer, Khammam Urban Mandal, dated 04.09.1998 shows that the land to the extent of Ac.0.34 guntas in Survey No.120 as in possession of Sri Laxmi Ranganatha Swamy Temple and, thus, answered the stand of the plaintiffs that no documents are filed to show that the Temple has got interest in the suit schedule property.

i) The trial Court also answered that the question as to whether the Temple is a necessary party or not, since the contention raised before the trial Court was that the plaintiffs cannot be compelled to implead the Temple and the relief claimed is for perpetual injunction and, therefore, the relief sought for has to be restricted to the

defendants, who are arrayed as they alone intervened unjustly with the possession of the plaintiffs, by observing that the suits are filed against the poojaris and in one of the suits (i.e., O.S. No.238 of 2012), the Government was made as party and in another suit, the Municipal Councillor relating to that locality is made as defendant and poojaris have no right or interest in the suit property which belongs to the Temple and since the Temple is represented by a Single Trustee and even recognized by the Endowment Department, the Temple is a necessary party.

ii) The trial Court referred to the ruling in **Vidur Impex and Traders Private Limited & others v. Tosh Apartments Private Limited and others**¹, referring to the law declared by the Hon'ble Supreme Court that at any stage of the proceedings either on the application made by the parties or otherwise direct for impleadment of any person as a party who ought to have been joined as Plaintiff or Defendant or whose presence before the Court is necessary for effective and complete adjudication of the issues involved in the suit and that necessary party is the person who ought to be joined as party to the suit, in whose absence an effective decree cannot be passed by the Court, and proper party is a person whose presence would enable the Court to completely, effectively and properly adjudicate upon all matters and issues, though, he may not be a person in favour of, or against whom a decree is to be made, and if a person is not found to

¹. 2012 (6) ALT 10

be a proper or necessary party, the Court does not have the jurisdiction to order his impleadment against the wishes of the plaintiff. Thereafter only, the trial Court referred to the Councillor and poojaris being made as parties in these suits, and observed that the poojaris will not represent the Temple and only the Trustee represents the Temple and, therefore, the Temple is a necessary party.

5. Heard Sri M.M.M. Srinivasa Rao, learned counsel for the revision petitioner - plaintiff, and Sri M. Karuna Sagar, learned counsel for respondent Nos.3 and 4.

6. The contentions raised by the trial Court have been reiterated by Sri M.M.M. Srinivasa Rao, learned counsel for the revision petitioners.

7. Whereas Sri M. Karuna Sagar, learned counsel for respondent Nos.3 and 4 would submit that the Temple is deliberately omitted though, the suit schedule property constitutes part and parcel of the property belonging to the Temple located in Survey No.120 and by creating certain documents, the said Pilli Chenna Krishna selling away the plots which are made in the Temple property. According to him that the entire Ranganayakula Gutta is named as such indicating that it is the Temple property in Survey No.120 though, the Temple is situate in Survey No.123. It is also his submission that merely

because poojaris being shown as defendants, is no ground to hold that the Temple does not have any interest in the property.

8. The submissions of the learned counsel for the revision petitioners appear to be *ex facie* misconceived. The injunction sought for is not just against the persons arrayed as defendants, but it deals with the right or interest held by the parties in immovable property in the present cases. So, the institution or the individual, who holds interest, right or title over a particular extent, is a necessary party without whose presence, the matters in controversy cannot be effectually and completely adjudicated upon. The sole Trustee appointed for the Temple and recognized by the Endowment Department has every right to protect the Temple property belonging to the Temple when either encroached upon or someone claims right over the property. The very fact that poojaris are arrayed as defendants itself is sufficient to hold that the Temple is a necessary party.

9. Thus, there is no merit in the present Revisions and, accordingly, the same are dismissed.

As a sequel thereto, miscellaneous petitions, if any, pending in these revisions, stand closed.

A. SHANKAR NARAYANA, J

April 06, 2018.
Mgr