THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

CIVIL REVISION PETITON No. 4336 OF 2018

O R D E R :

Plaintiff in O.S. No. 183 of 2008 on the file of the Principal Junior Civil Judge's Court at Kurnool is the petitioner herein. He calls in question the order dated 26.02.2018 dismissing I.A. No. 2404 of 2017 taken out under Order I Rule 10 read with Section 151 of the Code of Civil Procedure to add the petition schedule persons as defendant Nos. 7 and 8 to the suit.

The case of the petitioner is that he is the owner of the property by virtue of the gift deed executed by defendant No.5. It is his further case that defendants 7 and 8 are interfering with the possession on account of the alleged gift deed executed by the 5th defendant during pendency of the suit. The suit, as on 26.02.2018, is at the stage of cross-examination of defendant No.3. In other words, the trial of the suit is in advance stage. The Court below had recorded the reasons for refusing to amend the cause title and implead proposed Respondents 7 and 8 as party respondents, as under:

> " However, this Court observed that the suit is coming up for cross-examination of D.W.3 and the suit is filed for permanent injunction. The specific contention of the petitioner is that while pending the suit, the suit schedule property transferred to the proposed parties. No doubt, may be suit schedule property transferred to the proposed parties, but for the suits of permanent injunction, the cause of action is required to prove that the proposed parties tried to interfere into the peaceful possession and enjoyment of the petitioner or not. Mere transferring the title to the proposed parties, without having said cause of action or threat from the proposed parties, the petitioner not have any right to add them as necessary parties. More over, the petitioner kept silent from the year 2014, though the respondents gave information about the proposed parties. As there is no evidence shown by the petitioner as there is threat from the proposed respondents side, the petitioner is not

> entitled the relief because the petitioner added the defendants 2 to 6 one after one by amending the pleadings and adding the parties for several times. So this Court opined that the petitioner failed to prove the necessity to add the proposed parties in the pending litigation. More over, the petitioner not asked any relief to cancellation of said gift deed executed in favour of proposed parties. For the above reasons, this Court opined that this petition is liable to be dismissed. Accordingly, this point is answered."

The above order in the facts of the case, does not need any further elaboration and there is nothing to find fault with the reasons stated therein, particularly, the fact that the petitioner / plaintiff is in the know of execution of the gift deed by the 5th defendant in favour of defendants 7 and 8 as far back as in December 2014 itself and having kept quiet all these days, at this stage, he cannot seek to add them as party respondents, on the ground that they are interfering with his possession and enjoyment. Even assuming for argument sake, defendants 7 and 8 are interfering with the possession and enjoyment of the petitioner, the latter would have ample opportunity to seek appropriate relief against the individuals, who were supposed to be interfering with his possession and enjoyment. In those circumstances, there being no merit in the Revision, the same is dismissed. No costs.

Consequently, the miscellaneous Applications, if any shall stand closed.

CHALLA KODANDA RAM, J

31st October, 2018

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HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH
सत्यमेव जयते