

**THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO**

**CIVIL REVISION PETITION No.4392 of 2018**

**ORDER:**

This Revision is filed by the petitioner assailing the order dt.20-12-2017 in I.A.No.665 of 2017 in O.S.No.307 of 2007 of the Principal Junior Civil Judge, Madanapalle.

2. The petitioner is 5<sup>th</sup> defendant in the suit. He was not originally party to the suit and the suit had been filed for perpetual injunction by one Bodalapalli Reddenna against respondent Nos.1 to 4. The petitioner got impleaded as 5<sup>th</sup> defendant in the suit on 25-04-2013.

3. The petitioner filed a counter-claim along with his written statement seeking permanent injunction only against respondent Nos.1 to 4.

4. After completion of plaintiff's evidence, petitioner filed I.A.No.665 of 2017 stating that it is necessary for him to seek declaration that Ex.A-1 D.Form patta is null and void and for the said purpose, respondent Nos.5 to 7 are to be impleaded under Order I Rule 10 C.P.C.

5. According to him, the proposed parties are necessary for proving the petitioner's case that due process of law was not followed while issuing Ex.A-1 patta in favour of respondent Nos.1 to 4 ignoring the earlier assignment given to petitioner's father.

6. This application was opposed by plaintiff, who contended that there was no patta issued in favour of the father of petitioner and if the petitioner had any contest, he can file documents in support of his case and examine the persons to give evidence in his support, but cannot implead them as parties. It is pointed out that the plaintiff is the *dominus litus* and the petitioner cannot compel the plaintiff to litigate against the persons against whom he is not interested.

7. By order dt.20-12-2017, the Court below rejected petitioner's application stating that petitioner had separate procedure available for him for questioning any assignment under Board Standing Order 15, that petitioner did not avail of it, that petitioner was aware of issuance of Ex.A-1 assignment patta in favour of plaintiff on 10-06-2011, but he kept quiet and he cannot seek any declaration by way of amendment more than 3 years after 10-06-2011.

8. Assailing the same, this Revision is filed.

9. Learned counsel for petitioner contended that the Court below had unnecessarily made observations about the claim of declaration of title by petitioner being barred by limitation when the issue in question is only about impleadment of the proposed parties. He further contended that grave prejudice has been caused to the petitioner by the said observations.

10. I am of the opinion that petitioner, not being the plaintiff in suit, cannot compel the plaintiff to litigate against the persons such as proposed respondents against his will. Therefore, there is no error

committed by the Court below in refusing to permit the petitioner to implead the proposed parties as parties to the suit.

11. However, the Court below could not have made any observations about the question whether the relief of declaration also proposed to be sought by the petitioner can be granted or is barred by limitation or not and these observations are wholly irrelevant and unnecessary to decide the application before it. Therefore, to the extent of the said observations made by the Court below, the impugned order cannot be sustained. But as regards the main plea as to impleadment of the proposed parties, the order does not suffer from any error of jurisdiction warranting interference by this Court.

12. Therefore, the Civil Revision Petition is dismissed confirming the order of dismissal dt.20-12-2017 in I.A.No.665 of 2017 in O.S.No.307 of 2007 on the ground of impleadment of the proposed parties and its findings regarding relief of declaration being barred by limitation, are set aside. No costs.

13. However, this will not preclude the petitioner, if he is so chooses, to summon the Government Officials to give evidence in support.

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

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**JUSTICE M.S.RAMACHANDRA RAO**

Date: 03-08-2018

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