

THE HON'BLE SRI JUSTICE D.V.S.S.SOMAYAJULU

CIVIL REVISION PETITION NO. 2691 OF 2015

ORDER:-

This revision is filed questioning the order, dated 30-06-2015, passed in I.A.No.44 of 2015 in O.S.No.76 of 2008 on the file of the court of Senior Civil Judge, Sathupally.

2. The suit was filed for a bare injunction by the 1st respondent-Mohammad Magdoom against the respondent Nos.2 to 6. In the suit, I.A.No.44 of 2015 was filed by the present revision petitioner- Pattan Akbar Khan. It is his contention that he has a title and also possession of the subject property. Therefore, he contends that the revenue records, on the basis of which the suit was filed, are created records and that the 1st respondent does not have any right over the suit schedule property. His contention is that if the suit is taken on the basis of the so-called created revenue records, the possession of Mohammad Magdoom will be confirmed and that sanctity will be attached to the revenue records, on the basis of which Mohammad Magdoom filed the suit. Therefore, he filed an application under Order I Rule 10 CPC to implead himself in the suit. A counter-affidavit was filed in that interlocutory application stating that the petitioner is neither a proper or necessary party and that he has no right over the suit schedule property; the lower court passed the

impugned order clearly upholding that the petitioner is a *dominus litus* and he will choose against whom he can file a suit. Questioning the said order, the present revision petition is filed.

3. This court has heard both learned counsel appearing for the parties.

4. The contention of the learned counsel for the revision petitioner is that the revenue records on the basis of which the present suit is filed and is being prosecuted are not correct. Along with I.A.No.1 of 2018, which is filed to extend the interim order, the learned counsel for the revision petitioner filed a report, dated 12-06-2018, of the Tahsildar, Aswaraopet, Bhadradi Kothagudem District wherein the revenue authorities were directed to conduct a fresh enquiry into the pattadar passbooks etc., that were given for the suit schedule property. The learned counsel also points out that there are connected writ petitions also pending with regard to the said land and the pattadar passbooks issued.

5. The short and simple question that arises for consideration in this revision petition is whether the petitioner is a necessary for disposal of the suit? A necessary party is a one without whose presence the suit cannot be disposed off. This is a settled proposition of law. In the case on hand, the suit is filed by the

1st respondent against the respondent Nos.2 to 6. The suit is still pending trial and has not been disposed of yet. The contention of the petitioner that the revenue records would be upheld is, therefore, a premature at this stage. Even, the petitioner will have to establish his rights independent of the said suit O.S.No.76 of 2008. An injunction even if it is granted only against respondent Nos.2 to 6. If the petitioner has any independent right over the property or if the action of the respondents is in derogation of those rights, it is for him to independently prove his rights in an appropriate proceedings. He cannot not compel the plaintiff in O.S.No.76 of 2008 to add him as a party. The remedy of the petitioner is elsewhere and in the considered opinion of this court that I.A.No.44 of 2015 is a misconceived application. Hence, this court finds no reason to interfere with the order impugned in this revision petition. The order, dated 30-06-2015, is a reasoned order passed after considering the submissions of both sides.

Accordingly, the Civil Revision Petition is dismissed. The petitioner is at liberty to seek his remedies in an independent legal proceedings. No costs. Miscellaneous Petitions pending, if any, shall stand closed in consequence.

D.V.S.S.SOMAYAJULU,J

26-09-2018
TSNR