

HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN

Civil Revision Petition No.4794 of 2018

ORDER:

The first defendant, who sought certain additional issues to be framed for trial, has come up with the above revision, aggrieved by the order of the trial Court agreeing to frame only one additional issue, but rejecting the others.

2. Heard Mr. V.S.R. Anjaneyulu, learned counsel for the revision petitioner and Mr. E.V.V.S. Ravikumar, learned counsel for the 1st respondent-plaintiff.

3. The suit was filed by the 1st respondent herein, for the relief of declaration of title, recovery of possession and past and future mesne profits. The suit was resisted by the 1st defendant on various grounds including that the sale deed on the basis of which the plaintiff claimed title to the property, was void in view of the pendency of proceedings under the Land Reforms Laws. But, no issue was framed in this regard.

4. Therefore, the 1st defendant took out an application in I.A.No.719 of 2018 seeking framing of the following additional issues:

- 1) Whether the sale deeds (five) of the plaintiff are void in view of the pendency of the Land Reforms case before the competent Tribunal?
- 2) Whether the plaintiff is in possession and enjoyment of the plaint schedule property under the above five sale deeds at any point of time?
- 3) Whether the suit is maintainable without signing of the concerned advocate on the served copies?
- 4) Whether the suit for declaration and recovery of possession is barred by limitation?

5) Whether the suit is maintainable lacking of proper cause of action?

5. By the order impugned in this revision, the Court below agreed to frame an additional issue with regard to the limitation, but refused to frame other additional issues. Hence, the 1st defendant is before me.

6. Out of the additional issues that the 1st defendant wanted the court to frame, one issue is of significance. It relates to the validity of the sale deeds relied upon by the plaintiff, in the light of the proceedings pending under the Land Reforms Laws. The Court below rejected this issue on the ground that a comprehensive issue relating to the truth and validity of the sale deeds has already been framed.

7. But there is a technical distinction. The issue as to whether certain sale deeds are true, valid and binding on the defendants is different from an issue as to whether the sale deeds are void in the light of the proceedings pending under the Land Reforms Laws. Actually, it is primarily a duty of the Court to frame appropriate issues based upon the pleadings. The refusal of the Court to frame additional issues even after one of the parties wakes up to the reality, is not proper.

8. I find that the other four issues refused to be framed by the court below are not of any significance. But the issue relating to the validity of the sale deeds in the light of the proceedings pending under the Land Reforms Laws is an important issue.

9. Therefore, the Civil Revision Petition is allowed, the order of the court below is partly modified, framing the following issue in addition to all the issues originally framed and also in addition to the issue relating to the limitation framed by the order impugned in this revision:

“Whether the sale deeds relied upon by the plaintiff, are valid in view of the pendency of the proceedings before the competent Tribunal under the Land Reforms Laws”

There shall be no order as to costs.

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

V. RAMASUBRAMANIAN, J

Date: 20-09-2018

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