

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

CIVIL REVISION PETITION Nos.5727 and 5748 of 2018

COMMON ORDER:

These two Revisions are directed against the orders dt.16-08-2018 in I.A.No.1803 of 2017 and I.A.No.1812 of 2017 in O.S.No.21 of 2012 of the II Additional District Judge, East Godavari at Amalapuram.

2. Petitioner in both the cases is the plaintiff in the said suit.
3. He filed the said suit against Vadlamani Umamaheswara Rao (2nd respondent in C.R.P.No.5727 of 2018 and 4th respondent in C.R.P.No.5748 of 2018) (herein after referred to as the defendant) for specific performance of an agreement of sale dt.01-08-2009 allegedly executed by defendant.
4. Written statement was filed by defendant opposing grant of relief to the petitioner/plaintiff and contending that he is not the full owner of the property but having only 1/30th share in the suit schedule property and also contending that the property belongs to his father, brother and sisters also. He also denied that he is the owner of the entire schedule property.
5. The 1st respondent in C.R.P.No.5727 of 2018 filed I.A.No.1803 of 2017 stating that under the registered possessory agreement-cum-GPA dt.13-07-2012 he purchased undivided 1/6th share of the plaint

schedule property from one Vadlamanu Bhanumathi, D/o.Satyanarayana Murthy, who is a family member of the defendant.

6. Likewise, respondent Nos.1 to 3 in C.R.P.No.5748 of 2018 filed I.A.No.1812 of 2017 stating that 1st respondent purchased 1/24th share of the plaint schedule property from one Kagolanu Syamala, D/o.Vadlamani Umamaheswara Rao, another family member of the defendant under registered possessory agreement-cum-GPA dt.30-11-2013; that 2nd respondent purchased 1/24th share out of the plaint schedule property from Vadlamani Venkata Surahmanya Ravi under registered possessory agreement-cum-GPA dt.21-04-2014; and 3rd respondent purchased undivided 1/6th share out of the plaint schedule property from Mantha Venkata Prabhavathi and 4 others under registered possessory agreement-cum-GPA dt.13-07-2012, and contending that all of them have got possession of the property and therefore they should be impleaded in the suit, which according to them was filed on the basis of a fabricated agreement of sale.

7. Petitioner filed counters to both the applications opposing their impleadment and contending that after the defendant executed agreement with petitioner/plaintiff, to create litigation, these documents were created. It is alleged that the Sub-Registrar high handedly registered the documents in favour of the proposed parties though they contain false averments and false facts and therefore they are not entitled to be impleaded in the suit.

8. By separate orders dt.16-08-2018, the Court below allowed both the applications.

9. After referring to the contentions of both sides, the Court below opined that though it was a simple suit for specific performance of an agreement of sale dt.01-08-2009 and normally the plaintiff cannot be compelled to sue against the person against whom he does not seek any relief; but in the instant case, the relief which was claimed by petitioner against the defendant relates to same subject matter over which the proposed parties were claiming as purchasers of undivided share terming it as joint family property by virtue of registered possessory agreement-cum-GPAs and they were transferees *pendente lite*.

10. It took note of Section 19(b) of the Specific Relief Act, 1963 (for short "the Act") which provides that specific performance of a contract may be enforced against any other person claiming under a party to the agreement by title arising subsequently to the contract, except a transferee for value who has paid his money in good faith and without notice of the original contract, and observed that the presence of proposed parties is necessary to decide whether the plaintiff is correct in stating that the plaint schedule property is the absolute property of the defendant or whether the defendant is correct in taking a plea that it is a joint family property and it would not cause any prejudice to the plaintiff/petitioner if the purchasers are impleaded since he can obtain a decree against the subsequent transferees also. It held that onus of

proof completely rests on the impleaded parties to prove that they are *bona fide* purchasers for valuable consideration without notice of earlier contract and therefore the applications are liable to be allowed.

11. Assailing the same, these Revisions are filed.

12. Learned counsel for petitioner contended that the orders passed by the Court below are not valid and the petitioner being a *dominus litis*, he cannot be compelled to litigate against the persons against whom he does not seek any relief. He also contended that the property in question is the absolute property of the defendant and not joint family property.

13. The question whether the property in question is the absolute property of the defendant or joint family property as contended by defendant is required to be gone into in the suit and in the context of Section 19(b) of the Act, the *pendente lite* purchasers can be impleaded since their interests might also be effected in the event there is a finding recorded that the property is joint family property. They would have an opportunity to show that they are *bona fide* purchasers for valid consideration without notice to the earlier contract. In fact, the purpose of impleadment of parties is to avoid multiplicity of proceedings and it would also save the plaintiff the trouble of filing a fresh suit in the event the properties are found to be joint family properties of the family of the defendant.

14. I therefore do not find any error of jurisdiction of the orders passed by the Court below warranting interference by this Court under Article 227 of the Constitution.

15. Accordingly, these Civil Revision Petitions are dismissed at the stage of admission. No costs.

16. Consequently, miscellaneous petitions pending, if any, shall stand dismissed.

M.S.RAMACHANDRA RAO, J

Date : 16-11-2018
Vsv

