

HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CIVIL REVISION PETITION No.6283 OF 2018

ORDER:

This revision petition is filed under Article 227 of the Constitution of India challenging the order dated 22.10.2018 passed in I.A.No.120 of 2018 in O.S.No.24 of 2012 by the Additional Junior Civil Judge, Hindupur, in a petition filed under Order I Rule 10(2) C.P.C. to implead respondents 3 and 4 as defendants in the main suit filed for injunction simplicitor.

During hearing, learned counsel for the petitioner brought to the notice of this Court that the certified copy of sale deed dated 27.10.2010 executed by the defendant in favour of one V.Habiba @ V.Amzad, which was marked as Ex.P.1 and certified copy of sale deed dated 04.11.2010 executed by the defendant in favour of one S.Baba, which was marked as Ex.P.2, when the suit was filed in the year 2012 after sale of the property to respondents 3 and 4, they cannot be brought on record as defendants. Therefore, the Court below committed error in allowing the petition and requested to set aside the impugned order.

Learned counsel for the respondents requested this Court to grant leave to the respondents to file appropriate suit in the event, any cause of action arose independently against the proposed parties S.Baba and V.Habibullah @ V.Amzad.

In view of the request made by learned counsel for the respondents, there is no need to decide the revision petition on merits. However, in a suit for injunction, which is personal relief, though running with the property, the third party cannot be impleaded since the cause of action for the injunction simplicitor is the date of attempt to invade or infringe the legal right or obligation of the plaintiff and in the absence of any such allegations against the proposed parties, they cannot be brought on record as defendants. Therefore, the impugned order is liable to be set

aside.

In the result, the civil revision petition is allowed setting aside the order dated 22.10.2018 passed in I.A.No.120 of 2018 in O.S.No.24 of 2012 by the Additional Junior Civil Judge, Hindupur. However, the respondents are at liberty to file appropriate suit in the event, any cause of action arose against the proposed defendants uninfluenced by the findings recorded by this Court. I.A.No.120 of 2018 is dismissed. No costs.

Pending miscellaneous Petitions, if any, shall stand closed.

M. SATYANARAYANA MURTHY, J

21.12.2018
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