

**THE HON'BLE SRI JUSTICE S.V.BHATT**

**C.R.P.No.627 of 2013**

**ORDER:**

Heard Mr.Ravi Kiran Rao for petitioner and Mr.Srinivas Rao for respondents.

The effort of revision petitioner to implead the wives and children of her deceased brothers as respondents 4 to 7 is rejected by the trial Court at SR stage. Hence, the Civil Revision Petition.

Mr.Ravi Kiran Rao raises two grounds against the order impugned in the Civil Revision Petition namely that the learned trial judge ought to have numbered the IA, received counter from the proposed parties and thereafter passed orders on merits in accordance with law. Secondly, in a suit for partition, it is well settled that the presence of parties who have share in the plaint schedule properties is proper and necessary. Therefore, he prays for allowing the Civil Revision Petition by setting aside the order impugned in the Revision.

Mr.Srinivas Rao, per contra opposes the submissions by contending that the foremost reason that weighed with the learned trial Judge in dismissing the application was

that it does not conform to Rule 28 of Civil Rules of Practice.

According to Rule 28 of Civil Rules of Practice, one is required to make all consequential reliefs as are necessary along with the prayer for impleadment. In the absence of comprehensive prayers, the rejection of application (SR.No2755/2012) is valid. He places reliance on a decision of this Court reported in ***Brig.Chatrapati Singh Dev v. Amulya Kumar Padhi and others***<sup>1</sup>.

The operative portion reads thus:

“The learned Junior Civil Judge was in error in holding that a petition to impleadment of a party cannot contain the consequential relief of the amendments to be made and that such prayer amounts to claiming two reliefs in one petition. In view of Rule 28 of Civil Rules of Practice, which lays down that all petitions filed under Order 1 rule 10 CPC, Order 6 Rule 17 CPC and Order 22 CPC shall also contain a prayer for all consequential amendments, and that a petition without such relief should be rejected.

In view of Rule 28 of the Civil Rules of Practice petitioner claiming consequential relief of amendment to plaint also cannot be said to be irregular and does not amount to making two prayers in one petition. In fact as per the mandate of that Rule if the application does not contain the consequential reliefs to be made, it will have to be rejected.”

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<sup>1</sup> 2005 (5) ALD 315

I have perused the record and taken note of submissions made at the bar. Before advert to the contentions raised by Mr. Ravi Kiran Rao, this Court prefers to advert to the brief affidavit filed by the revision petitioner herein.

The affidavit reads thus:

“The above suit is posted for arguments. The respondent no.4 to 7 are the legal heirs of my deceased brothers namely late Chenthapanti Bhomaiah and late Chenthapanti Poshetti. During the course of my cross examination, the other side counsel raised objection that I have not made respondents no.4 to 7 as parties to the above suit as they are wives and the children of my brothers and they are necessary parties. As the respondents no.4 to 7 are the necessary parties to the above suit, they may be impleaded as defendants no.4 to 7 in the above suit, otherwise, I would suffer a lot.”

From the affidavit, it is very difficult to make out when the recall is necessitated except attributing to a suggestion put in cross-examination. The revision petitioner would have done better if an affidavit is filed with sufficient details together with comprehensive prayers while making the request for impleadment of respondents 4 to 7. The application is filed when the suit is posted for arguments. This Court is in agreement with the reasons given by the learned trial Judge.

Hence, the Civil Revision Petition fails and dismissed accordingly. No order as to costs.

The trial Court is directed to dispose of the suit within six weeks from the date of receipt of copy of this order.

Miscellaneous petitions, if any, pending, shall stand closed.

Dt: 28.08.2018  
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**S. V. BHATT, J**

