

HON'BLE SRI JUSTICE S.V. BHATT

C.R.P.No.1511 OF 2013

ORDER:

Heard learned counsel appearing for parties.

Plaintiffs in O.S.No.42 of 2005 in the Court of the Senior Civil Judge, Jagtial are revision petitioners. Sngam Sinivas-proposed party filed I.A.No.678 of 2012 under Order I Rule 10 (2) of CPC seeking impleadment as defendant No.3 in the suit.

The averments, in brief, for impleading proposed party as defendant No.3 are that the 1st defendant, who is the younger brother of proposed party, died on 08.05.2011 due to heart attack. The 1st defendant executed will deed on 26.01.2011 in favour of proposed party bequeathing his self acquired property in respect of item No.1 of suit schedule property. Therefore, it is necessary to implead the proposed party as 3rd defendant in the suit.

The petitioners herein opposed the prayer stating that the proposed party has no right to claim item No.1 of suit schedule property and he is not a necessary party to the suit proceedings, which is filed for partition and separate possession of the suit schedule properties.

The learned trial Judge through the order impugned in the revision while allowing the prayer held as follows:-

“In the present case in hand also, the petitioner being third party of the suit claiming interest in subject matter of the suit by virtue of will deed said to be executed by deceased first defendant No.1 during pendency of the suit. If he is not brought on record, proper adjudication of dispute cannot be passed. In view of the above said ratio laid by Hon'ble High Court in the above two judgments the Court is of the view that the

petitioner is a proper and necessary party to the suit for proper adjudication of dispute in question. Therefore, the contention raised by respondent Nos.1 and 2/plaintiffs is not tenable.

I have perused the record. The trial Court has rightly allowed the application filed by proposed party. This Court is in agreement with the reasons recorded by the trial Court. No ground warranting interference under Article 227 of the Constitution of India is made out.

The Civil Revision Petition fails and is, accordingly, dismissed. The dismissal of Civil Revision Petition shall not be understood as this Court considering the right of revision petitioners herein to file additional pleadings by way of rejoinder or otherwise in the suit. There shall be no order as to costs.

Pending miscellaneous petitions, if any, stand closed.

Date:17-08-2018
Prv

S.V.BHATT, J

