

HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

C.R.P.No.6372 of 2018

ORDER:

Heard the learned counsel for the petitioner.

2. This Civil Revision Petition is filed assailing the order dt.05-10-2018 in I.A.No. 1152 of 2018 in O.S.No.855 of 2012 of the Principal Senior Civil Judge, Rajamahendravaram.

3. Petitioner is plaintiff in the suit. She filed the suit for partition of the plaint schedule properties against the respondents who are her father, brothers and sisters respectively and contended that the plaint schedule properties are all ancestral properties in which she has a share.

4. In the plaint, the petitioner also mentioned about extent of Ac.0.28 cts at Inavilli village which fell to the share of 1st respondent but stated that this land was divided into house plots and sold in 2005 and 2006 long before the suit; and that sale proceeds of the said properties were used to purchase lands at Kolamuru village and included those properties in the plaint schedule. But the petitioner did not include the Ac.0.28 cts in Inavilly village in the plaint schedule.

5. After the trial was concluded and the matter was posted for arguments, petitioner filed I.A.No.1152 of 2018 to amend the plaint schedule to add the Ac.0.28 cts in Inavilli village and to

implead the purchasers of plots in the said Ac.0.28 cts, contending that she could not secure the names of the purchasers and therefore could not implead them in the suit or at the property in the plaint schedule and she could now secure the names of the purchaser.

6. Counter affidavit was filed by the respondent Nos.4 to 9, who were sought to be impleaded, opposing the said application and contended that the property Ac.0.28 cts is self secured property of the respondents and 2nd respondent executed the gift deed dt.20-05-2005 to the 3rd respondent and they purchased it from the 3rd respondent.

7. By order dt.05-10-2018, the Court below dismissed the I.A. stating that the petitioner was aware of the alienations made by 3rd respondent of the plots in Ac.0.28 cts of land in Inavilli village which was now sought to be included by way of amendment. The Court held that the contention of the petitioner that she was unaware of the names of the buyers is unbelievable, and at this stage, this application cannot be allowed.

8. Challenging the same, this Revision Petition is filed.

9. Though learned counsel for the petitioner sought to contend that grave prejudice would be caused to the petitioner, if the Ac.0.28 cts of Inavilli village is not added as an item in the plaint schedule property and if the respondent Nos.4 to 9 are not impleaded, I am of the opinion that nothing prevented the petitioner from adding the said item in the plaint schedule property either at the time of filing

of the suit or before the trial commenced and to implead the purchasers of the plots in the said property as defendants in the suit. The plea of the petitioner that she was not aware of the names of the purchasers is not believable since the petitioner clearly mentioned about the dates of the purchases of the plots in the Ac.0.28 cts. So she ought to have approached the Sub Registrar's office to obtain details of the documents under which the plots were alienated but did not do so. It is clear that the petitioner has not exhibited due diligence in seeking amendment to the plaint schedule before the trial commenced.

10. Therefore, the application for amendment was rightly disallowed by the Court below. Consequently the purchasers of the property, which was sought to be included by way of amendment, were also rightly not allowed to come on record since no useful purpose would be served by adding them as defendants in the suit, without the amendment to the plaint schedule being allowed.

11. I therefore do not find any error of jurisdiction in the order passed by the Court below warranting interference by this Court under Article 227 of the Constitution of India. Accordingly, the Civil Revision Petition is dismissed. No costs.

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

JUSTICE M.S.RAMACHANDRA RAO

Date: 19-11-2018
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