

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

C.R.P.No.7268 of 2018

ORDER:

This revision petition is filed under Article 227 of the Constitution of India assailing the orders dated 30.08.2018 passed in I.A.No.352 of 2017 in A.S.No.4 of 2016 on the file of VI Additional District Court, Kurnool.

2. Heard the learned counsel appearing for both the parties and perused the material available on record.

3. The point that arises for consideration is:

Whether there is any illegality, irregularity and impropriety in the impugned order?

4. A perusal of the record reveals that the first respondent filed O.S.No.88 of 2007 on the file of II Additional Senior Civil Judge, Kurnool, against the second respondent seeking perpetual injunction in respect of the suit schedule property. After full fledged trial, the trial Court dismissed the suit. Feeling aggrieved by the judgment and decree of the trial Court, the first respondent preferred A.S.No.4 of 2016 on the file of VI Additional District Court, Kurnool. During pendency of the appeal, respondents 1 to 4 filed a petition under Order I Rule 10 CPC to implead them as respondents 2 to 5 in the appeal on the ground that they purchased the suit schedule property on 24.10.2016.

5. The petitioner filed a counter *inter alia* contending that the respondents are not necessary and proper parties to the appeal, therefore, the petition is liable to be dismissed.

6. The first appellate Court after affording a reasonable opportunity to both parties, arrived at a conclusion that the respondents are necessary and proper parties to the appeal and consequently allowed the petition. Hence, the revision.

7. It is an admitted fact that the first respondent filed O.S.No.88 of 2007 against the second respondent for perpetual injunction in respect of the suit schedule property. It is the case of the petitioners that during pendency of the proceedings they have purchased the suit schedule property under different sale deeds on 24.10.2016 from the second respondent. The first respondent is also admitting the purchase of the suit schedule property by the proposed respondents on 24.10.2016. It is needless to say a person, who is having interest or semblance of interest in the suit schedule property, is entitled to come on record by invoking Order I Rule 10 CPC. In the present case, admittedly, the proposed respondents purchased the suit schedule property under different sale deeds on 24.10.2016 from the second respondent. It is the case of the respondents that they have been in possession and enjoyment of the suit schedule property with effect from 24.10.2016.

8. In view of the pendency of the appeal, this Court is not inclined to express any opinion with regard to the merits of the

main case. In order to adjudicate the appeal effectively, the presence of the respondents is inevitable. The respondents are necessary and proper parties to the appeal. The first appellate Court considered the material available on record in right perspective and arrived at a conclusion that the respondents are necessary and proper parties to the appeal. The first appellate Court has assigned reasons much less cogent and valid reasons to its findings. I am fully endorsing with the findings recorded by the first appellate Court. There is no illegality or irregularity in the impugned order warranting interference of this Court while exercising the jurisdiction under Article 227 of the Constitution of India. Viewed from any angle, the revision petition is liable to be dismissed.

9. In the result, the Civil Revision Petition is dismissed at the stage of admission. No order as to costs. As a sequel, miscellaneous petitions pending, if any, shall stand closed.

Dt:12.12.2018
Rns

T.SUNIL CHOWDARY, J

