

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CIVIL REVISION PETITION No.7521 OF 2017

ORDER:

This Civil Revision Petition is filed under Article 227 of the Constitution of India assailing the order dated 04.12.2017 passed in I.A.No.293 of 2017 in O.S.No.36 of 2009 on the file of XIII Additional District Court at L.B.Nagar, Ranga Reddy District.

2. Heard the learned counsel for both parties.

3. The point that arises for consideration is:

“Whether there is any illegality, irregularity or impropriety in the impugned order?”

4. A perusal of the record reveals that the petitioners filed O.S.No.36 of 2009 on the file of XIII Additional District Court at L.B.Nagar, Ranga Reddy District, against respondent Nos.1 to 3 seeking partition of the suit schedule property. While things stood thus, the petitioners filed I.A.No.293 of 2017, under Order I Rule 10 C.P.C., to implead the proposed parties as defendant Nos.4 to 7 in the suit. The respondents filed counter *inter alia* contending that the proposed parties are neither necessary nor proper parties to the suit; therefore, the petition is liable to be dismissed. Basing on the material available on record, the trial Court arrived at a conclusion that the proposed parties are not necessary and proper parties to the suit and consequently, dismissed the petition. Hence, the revision.

5. The petitioners and respondent Nos.1 to 3 belong to one family. Unfortunately, disputes arose between the brothers and sisters; therefore, the petitioners approached the Court for partition of the suit schedule property.

6. It is the case of the petitioners that respondent Nos.1 to 3 entered into a development agreement with the proposed parties in respect of item No.2 of 'A' schedule property. A part of item No.2 of suit schedule property originally belongs to the mother of the petitioners and respondent Nos.2 and 3. It is the further case of the petitioners that their mother executed a Will in favour of first respondent bequeathing part of item No.2 of suit schedule property. It is the further case of the petitioners that respondent Nos.1 to 3 entered into a development agreement with regard to the property, which belongs to their mother.

7. In view of pendency of the suit, this Court is not inclined to express any opinion with regard to validity or otherwise of the Will and other aspects.

8. The only question that falls for consideration is whether the proposed parties are necessary and proper parties to the suit or not.

9. If ultimately the suit is decreed, the petitioners are entitled for share as per their entitlement. Even assuming that respondent Nos.1 to 3 entered into an agreement in favour of the builder, the Court can protect the interest of the petitioners at the time of passing of preliminary decree as well as final decree. A necessary party is one without whose presence, the

Court cannot adjudicate the matter effectively. In the present case, the Court can decide the rights of petitioners and respondent Nos.1 to 3 even in the absence of the proposed parties. Even without impleading the proposed parties, the Court can adjudicate the suit effectively by declaring the rights of petitioners and respondent Nos.1 to 3. I am fully agreeing with the findings recorded by the trial Court that the proposed parties are not necessary and proper parties to the suit. Viewed from factual or legal aspects, the proposed parties are neither necessary nor proper parties to the suit. The trial Court considered the material available on record in right perspective and dismissed the petition. I am fully endorsing with the findings recorded by the trial Court. There is no illegality, irregularity or impropriety in the impugned order warranting interference of this Court while exercising the jurisdiction under Article 227 of the Constitution of India.

10. In the result, the Civil Revision Petition is dismissed. There shall be no order as to costs.

11. Consequently, Miscellaneous Petitions, if any, pending in this Civil Revision Petition shall stand closed.

T.SUNIL CHOWDARY, J

Date: 20.12.2018

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