

THE HON'BLE Dr.JUSTICE SHAMEEM AKTHER

CIVIL REVISION PETITION No.215 OF 2019

ORDER:

This Civil Revision Petition is filed under Article 227 of the Constitution of India, by the petitioner/plaintiff, aggrieved by the order dated 22.11.2018 passed in I.A.No.755 of 2018 in O.S.No.70 of 2010 by the learned Senior Civil Judge, at Huzurabad, wherein the impugned I.A.No.755 of 2018 filed by the petitioner/plaintiff under Order I Rule 10 of CPC to implead the respondents 2 to 5/proposed petitioners as defendants 2 to 5 in the suit, was dismissed.

2) Heard the learned counsel for the revision petitioner, learned counsel for the respondents 1 to 5 and perused the record.

3) Learned counsel for the revision petitioner/plaintiff would submit that the revision petitioner filed the subject suit in O.S.No.70 of 2010 before the Senior Civil Judge, at Huzurabad, seeking declaration of title and injunction in respect of the suit schedule property admeasuring Ac.2-19gts in Sy.No.152/A, situated at Dandepally Village, Elkaturthy Mandal, Karimnagar District. The revision petitioner/plaintiff was not aware of the alienation of the suit schedule property by the defendant under registered document No.2777/2010 dated 26.06.2010. Immediately, after coming to know about the same, he filed the impugned application. For proper adjudication of the subject matter, the proposed defendants are necessary parties to the suit. However, the Court below erroneously dismissed the impugned

application. It is also contended that the disputed sale deed was registered on 26.06.2010 and the suit was filed on 26.10.2010. No copy of the written statement was served on the revision petitioner. The proposed defendants being the legal representatives, are necessary parties and ultimately prayed to set aside the order under challenge and allow the impugned I.A.No.755 of 2018 as prayed for.

4) On the other hand, learned counsel for respondents would contend that the revision petitioner/plaintiff was aware of the fact of execution of registered sale deed dated 26.06.2010 and plaintiff made a clear admission in his cross-examination. Further, the said alienation was incorporated in the written statement filed by the defendant No.1 in the year 2011. After commencement of the trial of the suit, without assigning genuine reasons and suppressing the material facts, the impugned application was filed. The Court below is justified in dismissing the same and ultimately prayed to sustain the impugned order.

5) In view of the submissions made by both sides, the point for determination is:

“Whether the impugned order dated 22.11.2018 passed in I.A.No.755 of 2018 in O.S.No.70 of 2010 by the learned Senior Civil Judge, at Huzurabad, is liable to be set aside?”

6) Though the learned counsel for the revision petitioner would contend that copy of notice of filing of written statement was not given to him in the year 2011, there is nothing on record to substantiate the same. As per the record, the written statement

was filed by defendant No.1 in the year 2011 incorporating the alienation of suit schedule property under registered document No. 2777/2010 dated 26.06.2010. Further, PW.1 i.e, revision petitioner deposed in his cross-examination that he is aware of the execution of registered sale deed by the defendant in favour of one Pamera Sampath Rao, by the time of filing of the suit. The proposed defendants are the legal representatives of said Pamera Sampath Rao. Under these circumstances, it is appropriate to state that the suit was filed in the year 2010 and the impugned application was filed in the year 2018 i.e., after lapse of about 7 years. The revision petitioner has knowledge of the alienation in the year 2010 itself. The revision petitioner ought to have filed an application immediately in the year 2011 itself, when the written statement was filed. Further, the revision petitioner had not given cogent reasons with regard to the delay caused in filing the impugned application. The impugned application was filed at a belated stage. The Court below having discussed all the contentions, did not commit any illegality in passing the impugned order. The revision petition is devoid of merits and is dismissed accordingly.

7) Accordingly, the Civil Revision Petition is dismissed. Pending Miscellaneous Petitions, if any, shall stand closed. No order as to costs.

Dr. SHAMEEM AKTHER, J

Date: 22.10.2019
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