

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

C.R.P.No.193 of 2019

ORDER:

Heard the learned counsel for the petitioner.

2. This Revision Petition is filed assailing the order dt.17-12-2018 in I.A.No.677 of 2017 in O.S.No.572 of 2010 of the IV Additional District Judge, Ranga Reddy District at L.B.Nagar.

3. Petitioner herein is a third party to the said suit which was filed by respondent Nos.1 to 8 against respondent Nos.9 to 19 for declaration of title of respondent Nos.1 to 8, for recovery of possession by evicting respondent Nos.9 to 19 and also for a perpetual injunction. The subject land is extent of Ac.06.00 gts in Sy. No.155/Part (155/E, 155/EE, 155) situated in Kothwalguda village, Shamshabad Mandal, Ranga Reddy District.

4. The case of the respondent Nos.1 to 8 in the said suit is that the suit schedule land forms Ac.18.01 gts belonging to one Syed Mohd. Hasan Abedi, that there was agreement of sale dt.02-03-1965 executed by the said owner with one Gurrampally Bhoomaiah; apart from that, the said Bhoomaiah also purchased further extent of Ac.06.00 gts in Sy. No.155/Part from Yadgir Mallaiah under a registered sale deed in 1983; that respondent Nos.1 to 8 are the legal heirs of Bhoomaiah; but the respondent Nos.9 to 19 had got their names illegally mutated in the Record of Rights and in the pahanies

without any right and title and grabbed the suit schedule property on 10-07-2006 and they are liable to be evicted therefrom. Reference in the plaint was also made of O.S.No.1625 of 2009 filed by respondent Nos.9 to 19 against respondent Nos.1 to 8 before the VIII Senior Civil Judge, Ranga Reddy District at L.B.Nagar in respect of Ac.12.00 gts of land in the same Sy. No.155/Part in Kotvalguda village.

5. Petitioner herein filed I.A.No.677 of 2017 to implead him as defendant No.12 in the suit claiming that Yadgir Mallaiah, Yadgiri Sayamma and Yadagiri Kistamma were protected tenants of the land in Sy. No.155 and others of Kothwalguda village of an extent of Ac.38.28 gts; that the RDO (Land Reforms), Hyderabad West on 15-05-1975 granted ownership certificate under Section 38-E of the Andhra Pradesh (Telangana Area) Tenancy of Agricultural Land Act, 1950; that Yadagiri Mallaiah is sole legal heir and successor; that Yadgiri Kistamma executed a registered Will dt.04-07-2009 bequeathing all her properties to the petitioner; later she expired on 07-11-2009 and he became legal owner and possessor of the said properties also. He therefore contended that he may be impleaded in order to safeguard his interest in the plaint schedule property since any judgment passed by the trial Court would affect, his right, title and interest therein.

6. Counter affidavit was filed by respondent Nos.1 to 8 opposing his impleadment and denying the contentions raised by the petitioner. They also doubted the Will Deed set up by petitioner. Respondent

No.19 and other respondents also opposed the impleadment of the petitioner and stated that his claim in respect of the property is a false one.

7. By order dt.17-12-2018, the Court below dismissed I.A.No.677 of 2017.

8. The Court below held that the relief sought by the respondent Nos.1 to 8 is only against respondent Nos.9 to 19, that the petitioner is claiming independent right and title over the suit schedule property under alleged Will dt.04-07-2009 said to have been executed by Yadagiri Kishtamma, that the suit was filed in 2010 and he has filed instant I.A. in May 2017, that the plaintiffs had a right to choose parties to the suit and the plaintiff cannot be compelled to fight against a party against whom they do not seek any relief. Therefore, it held that the suit can be effectively adjudicated without adding the petitioner as a party and if he had any grievance, he should institute separate suit to work out his grievance.

9. Assailing the same, this Civil Revision Petition is filed.

10. Though learned counsel for the petitioner sought to contend that the petitioner is a necessary and proper party to the suit and ought to have been impleaded therein, as rightly observed by the Court below, the petitioner has set up independent right and title to the suit schedule property, and he is not claiming through any of the parties to the suit; and the respondent Nos.1 to 8/plaintiffs cannot be

compelled to fight against the petitioner against whom they do not seek any relief.

11. Therefore, I am of the opinion that the Court below has correctly exercised its discretion in refusing to implead the petitioner in the suit and permitting him to file fresh suit, in case, he has any grievance against the respondents.

12. Therefore, the Civil Revision Petition fails and is accordingly dismissed. No costs.

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

JUSTICE M.S.RAMACHANDRA RAO

Date: 07-02-2019
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