

HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

C.R.P.No.308 of 2019

ORDER:

This Revision is filed under Article 227 of the Constitution of India challenging the order dated 13.11.2018 in I.A.No.420 of 2018 in O.S.No.3 of 2014 of the XI Junior Civil Judge, City Civil Court, Secunderabad.

2. The petitioner is a third party to the suit filed by the 1st respondent initially against the 2nd respondent for a perpetual injunction. Later, the 1st respondent-plaintiff impleaded respondents 2 to 4, who are his vendors.

3. The petitioner herein, who is a third party to the suit, claims to have purchased, under registered sale deed dated 24.02.2012, a portion of the plaint schedule property from the 1st respondent-plaintiff and filed I.A.No.420 of 2018 to implead him in the suit. He contended that defendants 2 to 4 have questioned the title of the original plaintiff over the suit scheduled property and since the petitioner purchased 50% of the said plot from the original plaintiff, he should be brought on record since his interest is also involved in the suit property.

4. Counter affidavit was filed by the contesting 2nd respondent - 1st defendant contending that the petitioner has no right or title over the suit scheduled property as it is a part and parcel of 40% area of Secunderabad Contonment Board, which is earmarked for a park. It was also contended that there was a direction in C.M.A.No.19 of

2014 to both parties in the suit to maintain *status quo* and in violation of the same, the 1st respondent had executed a sale deed in favour of the petitioner.

5. By order dated 13.11.2018, the Court below dismissed the said application. After referring to the contentions of the parties, it observed that the petitioner, who wants to implead himself as defendant No.5, has to show that his interest is adverse to that of the 1st respondent-plaintiff to get impleaded as a defendant; but it is the petitioner's contention that the other defendants in the suit are questioning the title of the 1st respondent-plaintiff; and so the stand of the petitioner is irrational and unwarranted. It also recorded the contention of the 3rd respondent that the 1st respondent had reported no counter and it suggests collusion between the petitioner and the 1st respondent. It also recorded that no document has been filed by the petitioner to show that he has purchased any portion of the plaint schedule property from the 1st respondent.

6. Assailing the same, this Revision is filed.

7. Learned Counsel for the petitioner contended that the petitioner ought to have been impleaded as defendant No.5 in the suit since the other defendants were questioning the right, title and interest of the 1st respondent - plaintiff in the plaint scheduled property, particularly when the petitioner had purchased a portion of the plaint scheduled property under a registered sale deed dated 24.02.2012 and he would be adversely affected if the suit is dismissed.

8. Admittedly, the suit is filed for a perpetual injunction against the 2nd respondent. Even if the suit is decreed, such injunction would operate only against the said respondent and not against anybody else like the petitioner. Also in a suit for injunction, the aspects of right, title and interest can only be gone into incidentally and so any expression of opinion on the issue of title, while deciding the suit, cannot be treated as final and conclusive in a subsequent suit for declaration of title. Therefore, I do not find any merit in this Revision.

9. Accordingly, the Civil Revision Petition is dismissed. However, this order will not preclude the petitioner from initiating any independent proceedings against the respondents, if he is so advised. No order as to costs.

As a sequel, miscellaneous petitions pending, if any, in this revision shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

15.02.2019

Gsn