

HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

C.R.P.No.2884 of 2016

ORDER:

Heard the learned counsel for the petitioner.

2. This Revision Petition is filed by the petitioner under Article 227 of the Constitution of India assailing the orders dt.25-04-2016 in I.A.No.211 of 2016 in O.S.No.187 of 2015 of the Additional Junior Civil Judge, at Malkajgiri, Ranga Reddy District.

3. Petitioner is third party to the said suit which was filed by 1st respondent herein against respondent Nos.2 and 3 for perpetual injunction in respect of the plaint schedule property alleging that the 1st respondent is the owner of the plaint schedule property having purchased the same under a registered sale deed dt.03-09-2012 and was in possession thereof.

4. When the said suit was pending, petitioner herein filed I.A.No.211 of 2016 under Order I Rule 10 CPC to implead the petitioner herein as a 3rd defendant in the suit alleging that he had filed a suit O.S.No.931 of 2012 before the XVI Additional District Judge, Malkajgiri against 1st respondent and his proposed vendors to declare the sale deed being document No.4198 of 2013 as null and void, and for consequential injunction and that the said suit is pending adjudication. It is also contended that the petitioner had filed another suit O.S.No.275 of 2007 before XVI Additional District Judge, Malkajgiri, against 1st respondent's vendors seeking relief of

declaration and permanent injunction; that suppressing the pendency of the said suits, the 1st respondent had filed instant suit with an intention to knock away the property of the petitioner. It is contended that the 1st respondent is not the owner of the plaint schedule property, petitioner is the owner thereof, and it is the petitioner, who is in possession and enjoyment of the schedule property.

5. Counter affidavit was filed by 1st respondent opposing the impleadment of the petitioner. The 1st respondent contended that the petitioner did not file even a scrap of paper that the suit schedule property belongs to him and petitioner has direct interest in the subject matter of dispute. It is further contended that injunctive relief operates *in personam* and when the 1st respondent is not seeking any relief against petitioner, there is no necessity to implead the petitioner in the suit. Other contentions on merits were also raised.

6. By order dt.25-04-2016, the Court below dismissed I.A.No.211 of 2016. After referring to the contentions of the parties, it observed that petitioner itself has stated that comprehensive suit for declaration of title and injunction in respect of the subject property is pending and having regard to the pleas raised in the instant suit, it cannot be said that without the presence of the petitioner, the questions involved in the suit cannot be decided finally and effectively. It also observed that result in the suit will not affect the petitioner legally and will not curtail its rights. It also observed that if the petitioner's possession is threatened by any of the parties to the

suit, petitioner can always institute substantive proceedings separately to protect its' possession and interest over the property; and when such proceedings are already pending, it is not necessary to implead the petitioner in the suit because the impleadment of the petitioner would convert the simple suit for injunction into a complicated title suit.

7. Assailing the same, this Revision Petition is filed.

8. Learned counsel for the petitioner contended that the Court below erred in dismissing the application I.A.No.211 of 2016 to implead the petitioner in the suit O.S.No.187 of 2015 and when the petitioner is also interested in the property which is subject matter of the same suit, petitioner ought to be impleaded, and the Court below is not right in refusing to implead the petitioner.

9. Admittedly, the suit filed by the 1st respondent against respondent Nos.2 and 3 is for perpetual injunction and the relief therein operates *in personam* against respondent Nos.1 and 2, if the suit were to be decreed, and it would not bind third parties like the petitioner. If the petitioner feels that there is any threat to its claim of title or possession, it can certainly have it adjudicated in O.S.No.931 of 2012 already filed by the petitioner against 1st respondent, and which is pending for trial. Impleadment of the petitioner in the instant suit would convert the said suit which is filed for simple injunction into a suit where title claims to the suit schedule property require to be considered also. The questions involved in the suit can certainly be

decided finally and effectively even if the petitioner is not impleaded as a party. I concur with the view of the Court below that the petitioner is not a necessary and proper party to the suit in O.S.No.187 of 2015, and that the Court below has rightly rejected its application for impleadment.

10. Accordingly, the Civil Revision Petition fails and is dismissed at the admission stage. No costs.

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

JUSTICE M.S.RAMACHANDRA RAO

Date: 11-02-2019
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