

**THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO**

**Civil Revision Petition No.365 of 2019**

**ORDER :**

This Civil Revision Petition is filed under Article 227 of the Constitution of India challenging the order dt.01.10.2018 passed in I.A.No.51 of 2017 in O.S.No.1480 of 2015 on the file of II Additional Senior Civil Judge, Ranga Reddy District.

2. The petitioners herein are defendants in the above suit.
3. The 1<sup>st</sup> respondent / plaintiff filed the suit against the petitioners for declaration of his title and for a perpetual injunction stating that he had obtained a registered agreement of sale-cum-General Power of Attorney with possession on 23.12.2010 from the 2<sup>nd</sup> respondent; that the 2<sup>nd</sup> respondent had obtained title to the property under a registered sale deed dt.29.12.1994; that after the 1<sup>st</sup> respondent purchased the property, he built a compound wall with R.C.C. room and also engaged a watchman, apart from obtaining electricity connection; but the petitioners were trying to interfere with the 1<sup>st</sup> respondent's alleged possession and enjoyment over the plaint schedule property.
4. Pending suit, the 1<sup>st</sup> respondent filed I.A.No.51 of 2017 to implead the 2<sup>nd</sup> respondent stating that by oversight his counsel did not implead the 2<sup>nd</sup> respondent as plaintiff no.1 in the suit, and only impleaded the 1<sup>st</sup> respondent; and since the suit is a comprehensive suit for declaration of title and perpetual injunction under Order 1

Rule 10(2) of Civil Procedure Code, 1908, the 2<sup>nd</sup> respondent can be impleaded as 1<sup>st</sup> plaintiff.

5. This application was opposed by petitioners who contended that the application was not maintainable. They contended that the 2<sup>nd</sup> respondent did not come forward to contest the suit and even if he wanted to, he can be brought on record only as a defendant but not as plaintiff no.1.

6. The 2<sup>nd</sup> respondent filed a counter supporting the 1<sup>st</sup> respondent and pointed out that the registered G.P.A. executed by him in favour of 1<sup>st</sup> respondent involved only transfer of interest but not title; and the suit can be effectively decided in all respects only if he is also impleaded as plaintiff no.1.

7. By order dt.01.10.2018, the Court below allowed the said I.A. It held that there was no adverse interest between the 2<sup>nd</sup> respondent and the 1<sup>st</sup> respondent, and the 1<sup>st</sup> respondent is entitled as *dominus litis* to implead his vendor since title to the property is in issue.

8. Assailing the same, the present Civil Revision Petition is filed.

9. Though the counsel for petitioners sought to contend that the Court below erred in impleading the 2<sup>nd</sup> respondent as plaintiff no.1 in the suit, having regard to the fact that the 2<sup>nd</sup> respondent had no objection for his impleadment, and has no adverse interest to the 1<sup>st</sup> respondent, and since the relief in the suit is one for declaration of title, the 2<sup>nd</sup> respondent is a necessary and proper party to the suit; and

the Court below did not commit any error of jurisdiction in impleading him at the instance of the 1<sup>st</sup> respondent.

**10.** In view of the same, the Civil Revision Petition is dismissed.

No order as to costs.

**11.** As a sequel, miscellaneous petitions pending if any in this Civil Revision Petition, shall stand closed.

**JUSTICE M.S.RAMACHANDRA RAO**

Date: 26.02.2019

Ndr/\*

