

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

CRP.No.391 of 2019

ORDER:

This Revision is filed under Article 227 of the Constitution of India challenging the order dt.31.12.2018 in I.A.No.787 of 2018 in O.S.No.898 of 2001 of the I Additional Senior Civil Judge, Ranga Reddy District at L.B. Nagar.

2. Petitioners are third parties to the above suit.
3. They claim to have purchased small extents of plots under registered Sale Deeds executed in the year 1999 by the 2nd respondent herein, who is the 1st defendant in the said suit under various sale deeds.
4. It is not in dispute that the 1st respondent obtained title to the suit schedule property of Ac.70.00 gts in survey No.1007(part) situated at Kukatpally Village, Balanagar Mandal, Ranga Reddy District under a registered sale deed dt.15.04.1996 executed in its favour pursuant to a decree dt.27.02.1996 passed in O.S.No.581 of 1994 of the I Senior Civil Judge, Ranga Reddy District.
5. Admittedly, 1st respondent herein had filed O.S.No.898 of 2001 to cancel the Sale Deed dt.14.05.1996 obtained by the 2nd respondent pursuant to the decree dt.27.02.1996 in

EP.No.12 of 1996 in O.S.No.581 of 1994 of the I Senior Civil Judge, Ranga Reddy District and also for Permanent Injunction in respect of the said extent of Acs.70.00gts., which is the subject matter of said Sale Deed.

6. Petitioners filed I.A.No.787 of 2018 in O.S.No.898 of 2001 before the commencement of trial to implead themselves as parties to the suit stating that since the 2nd respondent had already sold plots to the petitioners and had no subsisting interest, and since the petitioners are absolute owners and possessors of the respective plots and have got direct and substantial interest in the subject matter of the suit, and since there is a possibility of the Office Bearers of the 2nd respondent may collude with the 1st respondent/plaintiff, they ought to be impleaded.

7. Counter affidavit was filed by the 1st respondent opposing the said application and stating that filing of this application is only to harass the 1st respondent and delay the disposal of the suit. It is pointed out that the petitioners are claiming rights only through the 2nd respondent and not independently. Reference is also made to certain other litigations which culminated into SLP(C).Nos.11595 of 2009 and 18163 of 2010 in the Supreme Court and also to other litigations. It is also stated that there were several other

suits pending, wherein other members of the 2nd respondent-Society are litigating against the petitioners.

8. By order dt.31.12.2018, the Court below dismissed the said application. It held that the petitioners are claiming title through the 2nd respondent-Society and have got no independent title, unless the title of their vendor was decided; that the petitioners cannot step into the shoes of their vendor, since the title of their vendor is not yet decided; that the 2nd respondent, without obtaining an approved layout allotted plots to members through various sale deeds, and there are several such allottees who want to be arrayed as defendants in the suit under registered sale deeds obtained by them; and the 1st respondent/plaintiff cannot be compelled to litigate against them. It observed that Court cannot enlarge the scope of the suit for the convenience of the petitioners and that it leads to multiplicity of proceedings.

9. Assailing the same, this Revision is filed.

10. Heard Sri M.V.Durga Prasad, counsel for petitioners and Sri D.Prakash Reddy, Counsel representing Sri G.Arun, Counsel for 1st respondent.

11. Counsel for the petitioners contends that petitioners ought to have been impleaded as parties in the suit because they are interested in subsistence of the title of their vendor and there is every possibility of their vendor/2nd respondent colluding with the 1st respondent/plaintiff and therefore they cannot be denied opportunity to contest the suit, particularly, when the trial has not yet commenced and no prejudice would be caused to the 1st respondent by their impleadment.

12. Sri D.Prakash Reddy, Counsel appearing for 1st respondent supported the order passed by the Court below and contended that the intention of the petitioners in filing this application is only to drag on the proceedings in the suit and they have no independent right to the property, since they are claiming only through the 2nd respondent, and so they are not necessary and proper properties to the suit.

13. I have heard the contentions of both sides.

14. Order I Rule 10(2) CPC enables the Court to add any person as a party at any stage of the proceedings if the presence of the person, who seeks to be impleaded, is found to be necessary in order to enable the Court to affectively and completely adjudicate upon and settle all the questions

involved in the suit. Avoidance of multiplicity of proceedings is also one of the objects of the said provision.

15. The person sought to be impleaded should either be a necessary and proper party, and a necessary party is one without whom no order can be affectively made and proper party is one, who is necessary for final disposal of the questions involved in the plaint (see **Sarvinder Singh v. Dalip Singh and Ors.**¹).

16. In the instant case, admittedly, petitioners have claimed to have purchased small plots of land from 2nd respondent-Society, who had derived title to the plaint schedule property under a registered Sale Deed dt.15.04.1996 executed in its favour pursuant to a decree dt.27.02.1996 in O.S.No.581 of 1994 of the I Senior Civil Judge, Ranga Reddy District in E.P.No.12 of 1996 filed therein by the 2nd respondent.

17. In O.S.No.898 of 2001, the 1st respondent is seeking cancellation of the said Sale Deed dt.15.04.1996.

18. In this scenario, if the title of the 2nd respondent is in jeopardy, petitioners would be unduly affected. Therefore, they are necessary parties to the suit since they have got a direct and substantial interest in the subject matter of the

¹ 1996(5) SCC 539)

suit. Also the possibility of the Office Bearers of the 2nd respondent-Society colluding with the 1st respondent/plaintiff cannot be ruled out. Even otherwise, having sold the property to the petitioners, the Office Bearers of the 2nd respondent-Society may not show much interest in contesting the suit. Only if the petitioners are on record, they would be able to effectively safeguard their interest.

19. In my considered opinion, the Court below was not correct in taking the view that since the petitioners have no independent title to the plaint schedule property, they are not entitled to be impleaded and the 1st respondent/plaintiff cannot be compelled to litigate against them. The further reasoning of the Court below that because there is no sanctioned lay out there is some doubt about the petitioners' claim cannot also be countenanced because title to the property, which is subject matter of the suit, would pass provided the 2nd respondent had title to the property, whether or not there is a sanctioned lay out.

20. In any event, the Court below could not have expressed any opinion on the merits of the claim of the petitioners while deciding whether or not to implead them in the suit.

21. Further view of the Court below that impleadment of petitioners leads to multiplicity of proceedings also cannot be accepted because their impleadment would avoid multiplicity of proceedings and not lead to multiplicity of proceedings. Therefore, the impugned order cannot be sustained.

22. Accordingly, this Civil Revision Petition is allowed; the dt.31.12.2018 in I.A.No.787 of 2018 in O.S.No.898 of 2001 of the I Additional Senior Civil Judge, Ranga Reddy District at L.B. Nagar is set aside; and the said I.A. is allowed. Since the suit is of the year 2001, the said Court shall decide the suit as expeditiously as possible preferably within a period of six (06) months from the date of receipt of a copy of this order. No order as to costs.

23. Consequently, miscellaneous petitions pending if any, shall stand closed.

M.S. RAMACHANDRA RAO, J

27th March, 2019.

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