

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

CRP.No.478 of 2019

ORDER:

This Civil Revision Petition is filed challenging the order dt.12.02.2019 in I.A.No.2273 of 2019 in O.S.No.673 of 2008 of the II Additional District Judge, Ranga Reddy District at NTR Nagar.

2. Petitioner herein is a third party to the above suit.

3. The 1st respondent herein filed the said suit against the respondents 2 and 3 for a Perpetual Injunction restraining the respondents from interfering with his alleged possession and enjoyment of an extent of Ac.1-35 guntas in Sy. No.509 of Manchirevula village, Rajendranagar Mandal, Rangareddy District contending that it is his self acquired property.

4. Petitioner filed under Order I Rule 10 CPC I.A.No.2273 of 2019 to implead him contending that the property which is subject matter of O.S.No.673 of 2008 is part of the schedule of the property in O.S.No.782 of 2006 pending before the II Additional District Judge Court, Ranga Reddy District; that the said suit was filed by the 3rd respondent and the petitioner for partition of several properties including the property, which is subject matter of suit O.S.No.673 of 2008, and impleaded the 1st respondent herein as 2nd defendant in O.S.No.782 of 2006. He contended that both suits had also been clubbed for joint trial, and in spite

of the same, trial is being separately conducted in the suit; and therefore petitioner should be impleaded as a party in OS.No.673 of 2008, so that his interests are not affected by any decree which may be passed therein.

5. This application was opposed by the legal heirs of 1st respondent. They contended that the application is only filed with an intention to drag on suit OS.No.673 of 2008 and the petitioner is not a necessary or proper party to O.S.No.673 of 2008.

6. By order dt.12.02.2019, the Court below dismissed I.A.No.2273 of 2018 observing that OS.No.782 of 2006 is wider in scope and the decree in OS.No.673 of 2008 is only binding the parties to it and there is no necessity to implead the petitioner in O.S.No.673 of 2008.

7. Challenging the same, this Revision is filed.

8. It is the contention of the counsel for the petitioner that petitioner is a necessary party to OS.No.673 of 2008 since he is one of the plaintiffs in OS.No.782 of 2006 filed for partition against the 1st respondent, who is the plaintiff in O.S.No.673 of 2008. He contended that the trial Court is not conducting joint trial at the request of the respondents herein, who are plaintiffs in OS.No.673 of 2008, and grave prejudice is being caused to him.

9. Sri V.Vijay Kumar, counsel for 1st respondent's legal representatives supported the order passed by the Court below.

10. Admittedly, O.S.No.673 of 2008 is a suit for bare injunction filed by the deceased-1st respondent against the respondents 2 & 3, and in that suit he had stated that the plaint schedule property is his self acquired property.

11. On the other hand, it is the contention of the petitioner that the suit schedule property in O.S.No.673 of 2008 is joint family property and is subject matter of the partition suit O.S.No.782 of 2006.

12. If the petitioner is having any grievance about the Court below not conducting joint trial in both the suits, petitioner should take appropriate steps in that regard. But, if the petitioner is impleaded in O.S.No.673 of 2008 as 3rd defendant, then the *interse* title dispute between the petitioner and the 1st respondent would have to be gone into in the suit O.S.No.673 of 2008.

13. It is settled law that in suits for injunction, title to the property is only incidentally gone into and if the petitioner is impleaded it would convert the suit filed by the 1st respondent against the respondents 2 & 3 for injunction, into a suit for deciding the title dispute between the petitioner and the 1st respondent.

14. In this view of the matter, I do not see any error of jurisdiction in the order passed by the Court below warranting interference by this Court with the impugned order.

15. Accordingly, this Civil Revision Petition fails and it is dismissed. No order as to costs.

16. Consequently, miscellaneous petitions pending if any shall stand dismissed.

23rd August, 2019.

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M.S. RAMACHANDRA RAO, J

