

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

Civil Revision Petition No.747 of 2019

ORDER:

This Civil Revision Petition, under Article 227 of the Constitution of India, is filed by the petitioners/plaintiffs 1 to 7, challenging the order, dated 11.03.2019, passed in I.A.No.55 of 2018 in O.S.No.143 of 2012, by the VII Additional District Judge, Warangal, whereby, the petition filed by the respondents 1 to 3 herein/implead petitioners under Order I Rule 10 of CPC to come on record as defendants 10 to 12 in the original suit, was allowed by imposing costs of Rs.3,000/- payable to the plaintiffs.

2. Heard the learned counsel for both sides and perused the record.

3. The learned counsel for the revision petitioners/plaintiffs 1 to 7 would contend that the respondents 1 to 3 herein/proposed defendants 10 to 12 have no right, title and interest over the subject matter of the original suit. The original suit is for perpetual injunction, filed against the defendants 1 to 9/respondents 4 to 12 herein. The father of the respondents 1 to 3 herein, i.e., defendant No.1 in the original suit, died. There is no substantial interest to the proposed defendants 10 to 12, to come on record. The Court below erroneously allowed the subject interlocutory application, after a lapse of five years of death of original

defendant No.1 in the suit and ultimately prayed to set aside the order under challenge and allow the Civil Revision Petition as prayed for.

4. On the other hand, the learned counsel for the respondents 1 to 3/proposed defendants 10 to 12 would contend that the proposed defendants 10 to 12 have independent substantial interest over the subject matter of the original suit. They are necessary parties to the suit. The Court below rightly exercised the jurisdiction vested in it and allowed the subject interlocutory application. There is no illegality or perversity in the order under challenge and ultimately prayed to dismiss the Civil Revision Petition.

5. The material placed on record reveals that a comprehensive suit for declaration of title and permanent injunction was filed by the revision petitioners/plaintiffs 1 to 7 against defendant Nos.1 to 9. After the death of the original defendant No.1, his legal heirs i.e, respondents 1 to 3 herein/proposed defendants 10 to 12 have filed the subject I.A.No.55 of 2018, claiming that the subject matter of the suit is covered by a dilapidated well. When the said well was subsisting, their father, i.e., the original defendant No.1 and the other shareholders were drawing water from the said well. Further, there are toddy trees around the bund of the said dilapidated well. The respondents 1 to 3 herein/proposed defendants 10 to 12 have substantial interest over the subject matter of the

suit. They are necessary parties. The Court below, having considered the same, was pleased to allow the subject interlocutory application, vide impugned order, dated 11.03.2019.

6. Admittedly, having come to know about the pendency of the suit, the subject interlocutory application was filed by the respondents 1 to 3 herein/proposed defendants 10 to 12, seeking permission to come on record as defendants 10 to 12 in the suit. There was delay of about four years in filing the said application. Since the respondents 1 to 3/implead petitioners are claiming substantial interest over the subject matter of the suit as indicated in the subject interlocutory application and being the LRs of defendant No.1-B.Anand Rao, delay and technical laches shall not be allowed to defeat their right to agitate in the original suit. Their deceased father was already defendant No.1 in the suit. On the demise of defendant No.1, the plaintiffs ought to have brought the LRs of defendant No.1 on record. They did not choose to do so, for the reasons best known to them. The proposed defendants 10 to 12 being the children of the deceased-defendant No.1 are necessary parties in a comprehensive suit for declaration of title and perpetual injunction. The Court below, having examined the whole issue, rightly exercised the jurisdiction vested in it. No perversity or illegality is found in the order under challenge. The Civil Revision Petition is devoid of merit and is liable to be dismissed.

7. At this stage, a request was made to fix a time frame to dispose of the original suit by the Court below. Since the original suit is of the year 2012, the Court below is directed to dispose of the original suit expeditiously.

8. With the above direction, the Civil Revision Petition is dismissed. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this Civil Revision Petition, shall stand closed.

05th November, 2019
Bvv

Dr. SHAMEEM AKTHER, J

