

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

CIVIL REVISION PETITION No.1355 OF 2019

ORDER:

This Civil Revision Petition is filed under Article 227 of the Constitution of India challenging the order dated 02.05.2019 in I.A.No.530 of 2017 in O.S.No.42 of 2016 of the file of the Judge, Family Court-cum-VII Additional District Judge, Medak at Sangareddy.

2. Petitioner is defendant No.4 in the suit.
3. Respondents 1 to 3 filed the said suit for partition of the plaint schedule property and for half share therein.
4. They alleged in the plaint that the suit schedule property belongs to one Kanchigari Chennaiah, who died on 08.07.2006 leaving behind him two sons, namely, K.Manaiah and Beerappa and his wife Pochamma; that Pochamma died on 04.04.2009; and that they succeeded to the said property though Beerappa died subsequently. It is alleged that respondent No.1 is the wife of Beerappa and respondents 2 and 3 are the children of said Beerappa; that the petitioner herein purchased the suit schedule property under registered sale deed dated 28.06.2014 from persons who are imposters and that the petitioner and other defendants in collusion with each other brought into existence the said sale deed to grab the property which fell to the share of respondents 1 to 3.
5. Written statement was filed by the petitioner/defendant No.4 opposing the suit claim and denying the ownership of late

Kanchigari Chennaiah over the plaint schedule property. He contended that his vendors were the absolute owners of the land, that the claim of respondents 1 to 3 was wrongful and they had no right over the plaint schedule property. He further submitted that only with a criminal intention, respondents 1 to 3 filed the suit and it is misconceived.

6. Petitioner then filed I.A.No.530 of 2017 to reject the plaint against defendant No.4 and contended that respondents 1 to 3 did not file a single piece of paper either in the form of registered document or revenue records showing their names or that of defendants 1 to 3 as their ancestors as pattadars or possessors of plaint schedule property and that respondents 1 to 3 have no chance of success in the suit. It is contended that the respondents 1 to 3 are not in exclusive possession of suit schedule property and the plaint did not reveal any prima facie title and joint possession as is alleged by respondents 1 to 3.

7. Counter affidavit was filed by respondent No.1 opposing the application reiterating the contentions of the plaint.

8. By order dated 02.05.2019, the Court rejected the said application. It referred to the contents of the plaint and in particular paragraph No.12 and held that that cause of action arose for respondents 1 to 3 on the date of creation of alleged sale deed dated 20.06.2014 in favour of the petitioner and the subsequent execution of the rectification deed dated 08.02.2016 in favour of the petitioner; that it is the pleading in the plaint that the plaint schedule property is the joint family property of the respondents and that they are seeking half share therein; and

whether respondents 1 to 3 would be entitled to partition and separate possession or not is to be decided after full-fledged trial. It is thus concluded that the plaint indicates that there is a cause of action for respondents 1 to 3 to file the suit against the petitioner and other defendants.

9. Challenging the same, this revision is filed.

10. Though learned counsel for the petitioner sought to contend that the plaint did not disclose any cause of action against the petitioner, it is not disputed that the property which is the subject matter of the suit is in the custody of the petitioner, who claimed to have purchased it under a registered sale deed dated 28.06.2014 and who also claimed to be in possession of the said property. The said deed is no doubt being challenged by respondents 1 to 3 who claimed that it was obtained by impersonation.

11. Whether the property is the property of Kanchigari Chennaiah or not, whether respondents 1 to 3 are his legal heirs or not, and also whether the vendors of the petitioner have any right, title or interest in property which they can convey to the petitioner, are all matters to be gone into after full-fledged trial during the hearing in the suit.

12. On a reading of the plaint, it cannot be said that respondents 1 to 3 do not have cause of action against the petitioner and therefore the plaint is liable to be rejected on the said ground. I therefore do not find any error of jurisdiction in the

order passed by the Court below warranting interference by this Court.

13. Accordingly, the Civil Revision Petition fails and the same is dismissed. There shall be no order as to costs. Pending Miscellaneous Petitions, if any, shall also stand dismissed.

M.S.RAMACHANDRA RAO, J

Date:14.06.2019

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