

THE HON'BLE SRI JUSTICE SANJAY KUMAR

CIVIL REVISION PETITION NO.1412 OF 2016

ORDER

This civil revision petition under Article 227 of the Constitution arises out of the order dated 03.12.2015 passed by the learned XIV Additional District and Sessions Judge, Ranga Reddy District at L.B. Nagar, Hyderabad, in I.A.No.51 of 2014 in L.A.O.P.No.1000 of 2013.

Despite service of notice, the respondents herein did not choose to enter appearance either in person or through learned counsel.

The petitioner filed the subject I.A. under Order I Rule 10 C.P.C. seeking to be impleaded in L.A.O.P.No.1000 of 2013. By the order under revision, the trial Court dismissed the I.A. Perusal of the order under revision reflects that the trial Court relied upon **AMBEY DEVI V/s. STATE OF BIHAR^[1]**, **MAHERUNNISA V/s. GREATER HYDERABAD MUNICIPAL CORPORATION, HYDERABAD^[2]** and **M/S. CYRUS INVESTMENT (P) LIMITED, HYDERABAD V/s. MOHD. FAREEDUDDIN KHAN^[3]** which held to the effect that third parties to the reference proceedings could not be impleaded and that Order I Rule 10 C.P.C. was not available to them.

Sri V.Venugopala Rao, learned counsel for the petitioner, would however point out that the Larger Bench judgment of this Court in **REPAKA BHYRAVAMURTHY V/s. MUPPIDI VENKATARAJU^[4]** was not taken into consideration by the trial Court and therefore, the order under revision is unsustainable.

In **REPAKA BHYRAVAMURTHY⁴**, a Larger Bench of five Judges of this Court held that the view taken in **M/S. CYRUS INVESTMENT (P) LIMITED, HYDERABAD³** did not lay down the correct law. Further, referring to **AMBEY DEVI¹**, the Larger Bench stated that the observation made therein was by way of a passing remark should not be treated as a

binding precedent.

In the light of the afore-stated opinion expressed by the Larger Bench in ***REPAKA BHYRAVAMURTHY***⁴, reliance by the trial Court on the above referred earlier judgments cannot be accepted. As the said precedential law was the only reason for the trial Court to reject the implead petition filed by the petitioner, the order under revision cannot be sustained and is accordingly set aside. The petitioner shall be impleaded as a party to L.A.O.P.No.1000 of 2013. The trial Court is directed to proceed with the matter thereafter in accordance with law.

The civil revision petition is allowed. Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

SANJAY KUMAR, J

24th JUNE, 2016

PGS

[\[1\]](#) 1996 (9) SCC 84 = AIR 1996 SC 1513

[\[2\]](#) 2012 (5) ALT 623

[\[3\]](#) 1993 (3) ALT 246 = AIR 1994 AP 199

[\[4\]](#) 2001 (5) ALD 815 (LB)