

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

Civil Revision Petition No.729 of 2019

ORDER:

This Civil Revision Petition, under Article 227 of the Constitution of India, is filed by the revision petitioner/proposed defendant-Shri Balaji Nagar Residents Welfare Society, (for short 'Society') challenging the order, dated 08.10.2018, passed in I.A.No.155 of 2017 in O.S.No.1146 of 2017, by the I Additional District Judge, at L.B.Nagar, Ranga Reddy District, whereby, the petition filed by the revision petitioner/proposed defendant under Order I Rule 10 read with Section 151 of CPC, seeking to implead the revision petitioner/proposed defendant as defendant No.3 in the main suit, was dismissed.

2. Heard the learned counsel for both sides and perused the record. Respondent No.4 is brought on record as Legal Representative of the deceased/respondent No.1/plaintiff as per Court Order dated 05.11.2019 vide I.A.No.4 of 2019 in C.R.P.No.729 of 2019.

3. The learned counsel for the revision petitioner/proposed defendant would contend that the petitioner's Society is a registered Society under the certificate of registration bearing No.998 of 2008, dated 31.10.2008 which was formed to protect interest of the people, who purchased the plots made in the layout sanctioned in the year 1980 issued by the Grampanchayat concerned. The suit plot bearing No.113 admeasuring 349 sq.yards in Sy.Nos.91 and 92, situated at Balajinagar colony, Bagh Hayathnagar Village and Mandal, Ranga Reddy District,

along with other plot Nos.114, 213 and 240 were demarcated in the said layout for public utility to construct park and hospital etc. The subject suit was filed by the respondent No.1/plaintiff, seeking declaration, recovery of possession and perpetual injunction in respect of the suit schedule property against the respondents/defendant Nos.1 and 2. Since the petitioner's Society is having substantial interest in the subject matter of the suit to protect the rights and interest of the plot owners who purchased the plots in the subject lay out, the petitioner's Society is necessary party for complete and proper adjudication of the subject matter of the suit. Therefore, the Court below ought to have allowed the petitioner's Society to come on record as defendant (defendant No.3) in the subject suit. The Court below is unjustified in dismissing the subject application and ultimately prayed to set aside the impugned order by allowing the revision petition as prayed for.

4. On the other hand, the learned counsel for the respondent No.4/plaintiff would contend that the petitioner's Society has no direct interest in the subject matter of the suit. There is no such approved layout as shown by the petitioner's Society issued by the respondent No.2 herein/GHMC or Grampanchayat concerned. After due verification only, the suit plot bearing No.113 was purchased by the respondent No.1/deceased- plaintiff. The Court below is justified in dismissing the subject interlocutory application and ultimately prayed to sustain the impugned order. In support of his contentions, learned counsel relied upon the following decisions:

1) Anil Kumar Singh Vs. Shivnath Mishra @ Gadasa Garu¹

2) Gurmit Singh Bhatia Vs. Kiran Kant Robinson².

5. In view of the submissions made by both sides, the point that arises for determination in this revision is as follows:

“Whether the order, dated 08.10.2018, passed in I.A.No.155 of 2017 in O.S.No.1146 of 2017, by the I Additional District Judge, at L.B.Nagar, Ranga Reddy District, is liable to be set aside?”

6. POINT: As seen from the record, the certificate issued by the office of the Registrar of Societies, Ranga Reddy District (East), shows that the petitioner's Society is registered under the A.P. Societies Registration Act, 2001 (Act No.35 of 2001), in the year 2008. As per the averments made in the affidavit filed in support of the petition and the submissions made, it shows that the object of petitioner's Society is to protect interest of the people who purchased the plots made in the layout sanctioned in the year 1980 by the grampanchayat concerned. The photocopy of lay out filed before this Court clearly shows that the subject plot No.113 along with plot Nos.114, 213 and 240 were earmarked for the purpose of public utility of constructing park and hospital etc. In the given circumstances, the purchasers of the plots in the said lay out are having substantial interest in the plots earmarked for constructing park, hospital and etc., which are meant for public utility. Whether there is any approved lay out, whether the suit plot is part and parcel of the area covered by the said lay out, whether the suit plot is left for the purpose of constructing park or hospital or any other purpose, are the

¹ 1995 AIR SCW 1782

² 2009 Law Suit (SC) 1369

matters which are required to be determined in the subject suit. It is necessary to permit the petitioner's Society, which is having substantial interest in the subject matter, to come on record for effective and complete adjudication of the subject matter of the suit. The decisions in Anil Kumar Singh's case (1 supra) and Gurmit Singh Bhatia's case (2 supra) relied upon by the learned counsel for respondent No.4/plaintiff, relate to cases of suit for specific performance and hence they are distinguishable from the facts and circumstances of the case on hand. In the given circumstances of the case, the Court below ought to have allowed the subject I.A.No.155 of 2017 permitting the petitioner's Society to come on record as defendant No.3 in the suit. Therefore, the impugned order is liable to be set aside.

7. Accordingly, the Civil Revision Petition is allowed and the order, dated 08.10.2018, passed in I.A.No.155 of 2017 in O.S.No.1146 of 2017, by the I Additional District Judge, at L.B.Nagar, Ranga Reddy District, is set aside. Consequently, I.A.No.155 of 2017 stands allowed as prayed for. Since it is brought to the notice of this Court that the subject suit is of the year 2014 and the respondent No.4/plaintiff is in advanced age, the Court below is directed to dispose of the suit after due trial in accordance with law within a period of six(6) months from the date of receipt of a copy of this order. No order as to costs.

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

Dr. SHAMEEM AKTHER, J

27th February, 2020
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