

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

Civil Revision Petition No.3776 of 2011

ORDER:

This Civil Revision Petition, under Article 227 of the Constitution of India, is filed by the petitioners/plaintiffs, challenging the order, dated 20.07.2011, passed in I.A.No.327 of 2009 in O.S.No.83 of 2004, by the V Additional District Judge (Fast Track Court), Ranga Reddy District at L.B.Nagar, whereby, the petition filed by the respondent Nos.1 to 5 herein/proposed defendant Nos.11 to 15 under Order I Rule 10 of CPC to implead them as defendant Nos.11 to 15 in the subject suit, was allowed.

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

3. The learned counsel for the revision petitioners/plaintiffs would contend that the subject suit is filed for specific performance of agreement of sale, dated 12.12.2003. The respondent Nos.1 to 5 herein/proposed defendant Nos.11 to 15 are claiming independent title and possession over the suit schedule property. They are not necessary parties for determination of the subject suit. Addition of the respondent Nos.1 to 5 herein/proposed defendant Nos.11 to 15 as party defendants to the subject suit would result in practically converting the subject suit for specific performance of agreement of sale, dated 12.12.2003 into a suit for title. Such exercise is not permissible. The Hon'ble Apex Court, in Kasturi Vs. Iyyamperumal and others¹, took such a view. The

¹ 2005 (3) ALD 83 (SC)

Court below erroneously allowed the subject interlocutory application 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 respondent Nos.1 to 5 herein/proposed defendant Nos.11 to 15 would contend that the proposed defendant Nos.11 to 15 are not strangers to the subject suit for specific performance of agreement of sale, dated 12.12.2003. They are not setting up independent claim over the suit schedule property, but they are claiming joint title and possession over the suit schedule property covered by the suit agreement of sale, dated 12.12.2003. The vendors of the suit schedule property have no right to alienate the same independently. Therefore, they are necessary parties for adjudication of the subject suit. The Court below rightly allowed the subject interlocutory application. There is nothing to take a different view and ultimately prayed to dismiss the Civil Revision Petition.

5. In Kasturi's case *supra*, the Hon'ble Apex Court held that the persons seeking addition in the suit for specific performance of the contract for sale, who are not claiming under the vendor but they are claiming adverse to the title of the vendor, do not fall in any of the categories enumerated in sub-sections (a) to (e) of Section 19 of the Specific Relief Act and that the persons claiming title adverse to that of the vendor are not necessary parties in a suit for specific performance and that addition of strangers to a contract results in converting the suit for specific performance into

one for different character and that strangers to a contract cannot be impleaded in a suit only to ascertain who is in possession of the suit property. There cannot be any dispute with regard to the law laid down by the Hon'ble Apex Court in the aforementioned decision. But in the instant case, the respondent Nos.1 to 5 herein/proposed defendant Nos.11 to 15 are not setting up any independent claim over the suit schedule property, but are claiming to be the joint titleholder and possessors of the suit schedule property. Ex.P.1 is the Munthakab decree certificate issued by the office of the Chief Commissioner of Land Administration in which, both Mirza Beharam Ali Baig and Mirza Munnawar Ali Baig are shown as possessors of the land admeasuring Acs.70.24 guntas. The suit survey numbers are also mentioned in Ex.P.1. It is the case of the respondent Nos.1 to 5 herein/proposed defendant Nos.11 to 15 that they are joint owners and possessors of the entire land covered by Ex.P.1 Munthakab. It establishes that the respondent Nos.1 to 5 herein/proposed defendant Nos.11 to 15 are claiming joint title to the property covered by the suit agreement of sale, dated 12.12.2003. Therefore, the aforementioned decision of the Hon'ble Apex Court relied upon by the learned counsel for the revision petitioners/plaintiffs is distinguishable on facts. For proper adjudication of the subject matter of the suit, the respondent Nos.1 to 5 herein/proposed defendant Nos.11 to 15 are necessary parties. The Court below, having analysed the entire material on record and assigning number of reasons, rightly allowed the subject interlocutory application.

6. It is apt to state that the supervisory jurisdiction conferred on the High Court under Article 227 of the Constitution of India is limited to see that a Court or Tribunal subordinate to it functions "*within the bounds of their authority*" and to ensure that law is followed by such Court or Tribunal by exercising jurisdiction vested in them and not declining to exercise the jurisdiction which is vested in them. Apart from the above, High Court can interfere in exercise of its power of superintendence, when there has been a patent perversity in the orders of the Courts or Tribunal subordinate to it or where there has been a gross and manifest failure of justice or the basic principles of natural justice have been flouted. In the instant case, neither there is patent perversity in the order under challenge nor the trial Court travelled beyond its jurisdiction in passing the impugned order. There is no legal infirmity in the order under challenge. There is nothing to take a different view. The Civil Revision Petition is devoid of merit and is liable to be dismissed.

7. In the result, 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.

Dr. SHAMEEM AKTHER, J

06th January, 2020
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