

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

FRIDAY, THE SECOND DAY OF DECEMBER
TWO THOUSAND AND TWENTY TWO

PRESENT

THE HONOURABLE SRI JUSTICE SAMBASIVARAO NAIDU

CIVIL REVISION PETITION NO: 1972 OF 2022

Petition Under Article 227 of Constitution of India against the order dated 27-04-2022 in I.A.no. 28 of 2018 in O.S. No. 33 of 2015 on the file of the Court of the XII Additional District Judge, Ranga Reddy District at Vikarabad.

Between:

1. J. MUNNA BAI, (DIED) PER LRS
2. J. Kishan Singh, S/o late Raja Ram Singh, Aged 55 years, Occ. Agriculture,
3. J. Shoba Bai, W/o Late Laxman Singh, Aged 45 years, Occ. Household,
4. J. Tulja Bai, W/o Late Shankar Singh, Aged 43 years, Occ. Household,
5. J. Nisha Bai, D/o late Shankar Singh, Aged 23 years, Occ. Student,
6. J. Shyamlal Singh, (Died) per LRs Plaintiffs No.11 to 13
7. J. Ram Singh, S/o Late Raja Ram Singh, Aged about 41 years, Occ. Agriculture,
8. J. Ram Bai, D/o Late Raja Ram Singh, Aged 57 years, Occ. Household,
9. J. Rani Bai, D/o Late Raja Ram Singh, Aged 45 years, Occ. Household,
10. J. Ambrani Bai, D/o Late Raja Ram Singh, Aged 35 years, Occ. Household,
11. J. Indrani Bai, W/o. Late Shyamlal Singh, Aged 35 yrs, Occ. Student,
12. J. Raja Ram Singh, S/o. Late Shyamlal Singh, Aged 12 years, Occ. Household.
13. J. Dhananjay Singh, S/o. Late Shyamlal Singh, Aged 7 years, Occ. Student.

Petitioners 12 and 13 Rep by their natural Mother and Guardian of Petitioner no.11

Petitioners No.1 to 13 are R/o H.No 1-27, Mirzaguda, Janwada, Shankerpally Mandal, Ranga Reddy District.

...PETITIONERS/ Petitioners / Plaintiff

AND

1. J. Bharat Singh S/o Late Daharat Singh, Aged 61 years, Occ. Business, R/o H.No. 1-30, Mirzaguda, Janwada, Shankerpally (M), Ranga Reddy District,

2. J.Tulja Bai, D/o Late Daharat Singh Aged about 50 yrs, Occ. Household, R/o H.No 2-18, Vattinagullapally, Gandipet Mandal, Ranga Reddy District
3. J.Amba Bai, S/o Late Daharat Singh, Aged 47 years, Occ. Household, R/o H.No.1-30, Mirzaguda, Janwada, Shankerpally (M), Ranga Reddy District,
4. J.Suraj Singh, S/o Late Daharat Singh, Aged 40 years, Occ. Business, R/o H.No.1-30, Mirzaguda, Janwada, Shankerpally (M), Ranga Reddy District, ...
Respondents / Respondents Defendants
5. Durvas Janaki Bai, W/o Narender Singh, D/o Chinta Bai alias J.Bharath Singh, Age 33 Years, Occ. Household, R/o H.No. 1-18/1, Koinapally Village, Nutankal, Medchal Mandal and District-501 401.
6. Durvas Ganga Bai, W/o Inder Singh, D/o Chinta Bai alias J.Bharath Singh, Age 31 Years, Occ. Household, R/o H.No.1-47, Mirzaguda, H/o Janwada village, Shankerpally Mandal, Ranga Reddy District-75. Ily Mandal, Ranga
7. Khenwar Saraswathi Bai, W/o Jagath Singh, D/o Chinta Bai alias J.Bharath Singh, Age 27 Years, Occ. Household, R/o H.No.9-5-111, Ramdevguda, Hyderabad, Telangana-31.
8. Hatinjar Sindhu Bai, W/o Pavan Singh, D/o Chinta Bai alias J.Bharath Singh, Age 26 Years, Occ. Household, R/o H.No. 1-04, Mirzaguda, H/o Janwada village, Shankerpally Mandal, Ranga Reddy District, Telangana-75.
9. Chintabai Santoshi Bai, W/o Santosh Singh, D/o Chinta Bai alias J.Bharath Singh, Age 25 Years, Occ. Household, R/o H.No. 1-22, Mirzaguda, H/o Janwada village, Shankerpally Mandal, Ranga Reddy District-75
10. Chintabai Heera Bai, W/o Hanuman Singh, D/o Chinta Bai alias J.Bharath Singh, Age 26 Years, Occ. Household, R/o H.No. 1-22, Mirzaguda, H/o Janwada village, Shankerpa
11. Chintabai Jamuna Bai, D/o Chinta Bai alias J.Bharath Singh, Age 28 Years, Occ. Household, R/o H. No. 1-61, Mirzaguda, H/o Janwada village, Shankerpally Mandal, Ranga Reddy District-75.
12. J.Dharmender Singh, S/o Suraj Singh, Age 29 Years, Occ. Agriculture, R/o H.No. 1-21/A, Mirzaguda, H/o Janwada village, Shankerpally Mandal, Ranga Reddy District-75 Reddy District-75.
13. Kandari Reshma Bai, W/o Vijay Singh D/o J. Suraj Singh, Age 25 Years, Occ. Household, R/o H.No. 1-86, Mirzaguda, H/o Janwada village, Shankerpally Mandal, Ranga Reddy District-75.
14. J.Meena Bai, W/o D.Ram Singh D/o Suraj Singh, Age 20 Years, Occ. Household, R/o H.No.1-21, Mirzaguda, H/o Janwada village, Shankerpally Mandal, Ranga Reddy District-75
15. P.Anil Ratna Kumar, S/o Late P. Veera Swamy, Aged 48 Years, Occ. Business, Rio H.No.10-2-289/12/39, P.S.Nagar, Behind Hokey Ground, PS Nagar, Hyderabad - 57,
16. Dr.Arun Kumar Khabra, S/o Late Sri Gajanand Khabra, Age 76 Years, Occ. Doctor, R/o H.No.6-3-90713, Kapadia Lane, Somajiguda, Hyderabad-82.
17. Usha Khabra, W/o Dr.Arun Kumar Khabra, Age 66 Years, Occ. Housewife, R/o H.No.6-3-907/3, Kapadia Lane, Somajiguda, Hyderabad-82

...RESPONDENTS

IA NO: 1 OF 2022

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to stay all further proceedings in OS No.33 of 2015 on the file of the XII Addl. District Judge, Ranga Reddy District at Vikarabad, pending disposal of revision.

Counsel for the Petitioner: SRI. K. RAMA KRISHNA

Counsel for the Respondent Nos. 1 to 4 : SRI G. TIRUPATHI REDDY

Counsel for the Respondent No. 15 : SRI BATHULA RAJ KIRAN

The Court made the following: ORDER

HONOURABLE SRI JUSTICE SAMBASIVA RAO NAIDU

C.R.P.NO.1972 of 2022

ORDER:

Feeling aggrieved by the order of learned XII Addl. District Judge, Vikarabad, dated 27-04-2022 in I.A.No.28 of 2018, whereunder the Court below dismissed the request of petitioners/plaintiffs to add respondents No.5 to 17 as defendants No.5 to 17 in O.S.No.33 of 2015, the said petitioners/plaintiffs have filed the present revision under Article 227 of Constitution of India.

2. The petitioners are plaintiffs in O.S.No.33 of 2015 and respondents No.1 to 4 are defendants in the said suit. The petitioners/plaintiffs have filed I.A.No.28 of 2018 under Order 1 Rule 10 C.P.C. seeking to add respondents No.5 to 17 as defendants to the main suit. For convenience sake, the petitioners will be referred as plaintiffs, respondents No.1 to 4 are referred to as defendants as they are shown in the main suit.

3. In support of the petition filed before the trial Court, one Munna Bai, the first plaintiff has filed her affidavit and claimed that Raja Ram Singh and Devl Singh were the joint owners of agricultural lands in various survey numbers to an extent of

Ac.26-00 gts situated at Janwada Village which is more fully described in the plaint schedule. She has claimed that the above said brothers were absolute owners and possessors of the agricultural land but they did not affect any partition during their life time. The plaintiffs in the main suit are the legal representatives of Raja Ram Singh, defendants No.1 to 4 are legal representatives of Devi Singh, thereby plaintiffs and defendants No.1 to 4 have got equal half share in the properties of the above referred Raja Ram Singh and Devi Singh. However, defendants No.1 to 4 did not come forward for effecting partition, therefore, they filed the main suit for partition of the suit schedule properties and for allotment of half share in their favour.

4. The plaintiffs have further averred that they came to know the defendants No.1 to 4 having colluded with the revenue officials created some forged documents in favour of their children, who are shown as respondents No.5 to 14 (proposed defendants) and alienated a portion of the suit schedule property. The affidavit further shows that defendant No.1 in collusion with his children i.e., respondents No.5 to 11 sold a portion of suit property to the proposed 15th defendant. Likewise defendant No.4 along with his children i.e., respondents No.12 to 14 sold some property shown in the schedule to respondent No.15 and respondent No.15

alienated Ac.0-15 gts of land in favour of respondents No.16 and 17 under a registered sale deed. Therefore, according to the plaintiffs, a portion of the suit schedule property over which they got right was alienated by defendants No.1 and 4 in favour of respondent No.15 and respondent No.15 in turn sold an extent of Ac.0-15 gts to respondents No.16 and 17, thereby, the plaintiffs sought for impleading respondents No.5 to 17 to the main suit.

5. The petition is opposed by defendants No.1 and 4. A counter affidavit of defendant No.1 has been filed and it is claimed by the contesting defendants that the plaintiffs have filed the main suit by suppressing the material facts. They denied the contention of the plaintiffs about their right being legal heirs of Shyamlal Singh, the plaintiff No.6 on record. These defendants have claimed that originally the property was owned by Ancharam Singh, who died issueless. The brother of said Ancharam Singh namely Laxman Singh and his two sons Devi Singh and Raja Ram Singh have succeeded the property. After the death of Laxman Singh, the said property was succeeded by Raja Ram Singh and Devi Singh. Their names were mutated in the revenue records. After the death of their father, these two brothers have partitioned the property in equal share and got their names entered in the

revenue records with respect to their shares and they enjoyed the property without any interruption.

6. These defendants have further claimed that after the death of Devi Singh, his son Dashrath Singh succeeded the share of his father and got his name entered in the revenue records. The family members of Raja Ram Singh have enjoyed the property that fell to the share of Raja Ram Singh. Subsequently, the said Dashrath Singh died leaving his legal representatives. The first defendant is the son of Dashrath Singh and he got his name entered in the revenue records. After the death of Dashrath Singh, the total property fell to his share and again partitioned among his sons namely Bharath Singh and Raja Ram Singh. Their names have been mutated in the revenue records.

7. Therefore, according to the counter affidavit filed by defendants No.1 and 4, it was their case that there was partition among Raja Ram Singh and Devi Singh. The successors of these brothers got their names mutated in the revenue records and subsequently, defendant No.1 got the property that fell to the share of his father which was subsequently partitioned between Bharath Singh and Raja Ram Singh. The defendants have further pleaded that subsequent to the above said partition, the successors of Devi Singh and Raja Ram Singh were enjoying the

property. There were sale transactions with regard to the property that fell to the share of Raja Ram Singh but the plaintiffs having suppressed the said partition, filed the present suit and trying to implead unnecessary parties to the suit thereby, prayed for dismissal of the petition.

8. The Court below having considered the averments made in the affidavit and counter affidavit and having considered the oral arguments of both parties, came to a conclusion that the proposed defendants are not necessary parties to the suit and dismissed the petition vide Order dated 27-04-2022 under the order impugned in the present revision.

9. The plaintiffs have challenged the order on the following grounds :

The Court below should have seen that the plaintiffs specifically pleaded that during the pendency of the suit proceedings, defendants No.1 to 4 and their children have disposed suit 'A' schedule property and the subsequent purchasers are proper and necessary parties to the suit proceedings. The Court below should have seen that respondents No.15 to 17 have purchased the properties shown in the suit schedule from respondents No.1 to 14. Therefore, the Court below ought to have impleaded the respondents No.5 to 17 as defendants to the main

suit. The plaintiffs further pleaded that they filed petition under Order 1 Rule 10 C.P.C. subsequently alleging that the first plaintiff sold the property to the proposed defendants, the application filed by the plaintiffs in I.A.No.571 of 2021 under the same provision was allowed by the Court thereby, the Court below ought to have allowed their application and impleaded respondents No.5 to 17 as defendants to the main suit and there are no justifying reasons for dismissing their request.

10. Heard both parties.

11. Now the point for consideration is :

Whether respondents No.5 to 17 are proper and necessary parties to the main suit that the Court below committed an error in dismissing the application to add respondents No.5 to 17 as defendants to the main suit?

12. In order to decide an application under Order 1 Rule 10 C.P.C., the Court must see whether the proposed parties are proper and necessary parties to the litigation and whether their presence is quite necessary for complete and effective disposal of the main suit. In the case on hand, the plaintiffs have claimed that the property shown in the suit schedule was owned by two brothers namely Raja Ram Singh and Devi Singh and there was no partition among these brothers but they used to enjoy the property. After the death of these brothers, the legal

representatives having succeeded the property, continued the enjoyment without any partition but the defendants No.1 and 4 having colluded with their respective children created documents in favour of respondent No.15, who in turn alienated a portion of the suit property to respondents No.16 and 17, thereby, they sought for impleadment of respondents No.5 to 17 to the main suit.

13. On the other hand, the contesting defendants have pleaded that there was partition between Raja Ram Singh and Devi Singh. They got their names mutated in the revenue records in respect of their separate properties. The land that fell to the share of Raja Ram Singh and Devi Singh was subsequently fell to the share of their respective legal representatives. The revenue record would show the name of the successors in title of Raja Ram Singh and Devi Singh. Therefore, the proposed parties are not necessary to the main suit. In support of their contention, the defendants have relied on the copies of registered sale deeds vide Exs.P39 to 41 marked in other petition vide I.A.No.8 of 2018 filed under Order 39 Rules 1 and 2 C.P.C. These documents were executed in the year 2003.

14. The defendants No.1 and 4 have furnished the details of lands that fell to the share of Raja Ram Singh S/o.Laxman Singh

and Bharath Singh S/o. Dasarath Singh. These two defendants have also claimed that plaintiffs have sold the property that fell to their share vide document No.1330 of 2003 and they have executed another sale deed in respect of survey No.156 vide documents No.2231 of 2015 and 2230 of 2015 on 30-04-2015. As per the averments made in the counter affidavit, these two sale deeds were executed by the plaintiffs in respect of Ac.02-00 gts out of the suit property.

15. It also shows that plaintiffs No.3 and 4 have filed a suit for partition vide O.S.No.8 of 2002 against plaintiffs No.1, 2, 6, 7 before Senior Civil Judge, Vikarabad, for partition of property that fell to their share and the said suit was decreed on 18-03-2003. Therefore, the decree itself shows there was partition between the plaintiffs and defendants. The plaintiffs herein did not dispute this averment. The plaintiffs did not state anything about O.S.No.8 of 2002 while presenting the present partition suit. Had there been no partition as alleged by the plaintiffs in the present suit, they could not have filed O.S.No.8 of 2002 and obtained a decree on 18-03-2003. If once there is a partition of the properties and the plaintiffs started disposing their properties, the question of again partition of the properties may not arise. If the Court believes that there was no partition but defendants No.1 and 4 have alienated

some properties to 3rd parties still the plaintiffs are entitled to seek partition and if they are able to establish their right, they can obtain a decree and sought for final decree for their respective shares. In the light of their own averment that entire Ac.26-00 gts sult land is to be partitioned among the two branches of Raja Ram Singh and Devi Singh, the plaintiffs cannot seek absolute right over the entire extent. They may be having half share and in such case, even if there is any subsequent transfer of properties by the legal representatives of Devi Singh, the subsequent purchasers are not necessary parties to the partition suit filed by the plaintiffs. Even in the absence of proposed parties, the plaintiffs can establish the right to seek partition and their right on half of the suit schedule property. On the other hand, if there is a real partition and the respective share holders/legal representatives of Raja Ram Singh and Devi Singh have been enjoying their respective shares and there are subsequent alienations by the legal representatives of Devi Singh, the addition of 3rd parties who have purchased these properties will definitely cause prejudice to the rights of the subsequent purchasers. Therefore, the Court below rightly dismissed the application filed by the plaintiffs as such, the order cannot be questioned in the present revision. Therefore, the revision is liable to be dismissed.

16. In the result, revision is dismissed.

Consequently, Miscellaneous applications if any, are closed.

There shall be no order as to costs.

Sd/- L. SHIVA PARVATHI,
ASSISTANT REGISTRAR

//TRUE COPY//


SECTION OFFICER

To,

1. The XII Additional District Judge , Ranga Reddy District at Vikarabad.
2. One CC to SRI. K RAMA KRISHNA Advocate [OPUC]
3. One CC to SRI. G TIRUPATHI REDDY Advocate [OPUC]
4. One CC to Sri BATHULA RAJ KIRAN, Advocate (OPUC)
5. Two CD Copies

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HIGH COURT

SSRNJ

DATED:02/12/2022



ORDER

CRP.No.1972 of 2022

DISMISSING THE CRP

WITHOUT COSTS

⑦ Copies

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22/12/22