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A.Nos.3581 & 4834 of 2023

in

CS.Nos.144 & 142 of 2022

R.N.MANJULA, J.,

The suits have been filed for recovery of possession in respect of two different properties in CS.Nos.144 & 142 of 2022. The 1 and 2 defendants in CS.No.144 of 2022 are the defendants 2 and 3 in CS.No.142 of 2022. The applicant is the plaintiff in both suits and he has filed these applications to implead him as a proposed party as one of the defendants in the above suits.

2. It is submitted by the learned counsel for the applicant / plaintiff that the proposed party is the director of the 1st defendant's company who is acting on behalf of the 1st and 2nd defendants. Since the 2nd respondent resigned his position as director and the 3rd respondent was inducted on 05.10.2022, hence the proposed party should also be impleaded as a party to the proceedings.

3. The learned counsel for the respondent submitted that the applicant/plaintiff, having filed suit against the existing defendants by stating that they were in possession of the suit property, now has filed this petition by stating that the proposed party is in possession. The contradictory stand taken by the applicant/ plaintiff would change the



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nature of the suit and hence, the contradictory and inconsistent pleas taken by the applicant / plaintiff cannot be allowed and hence the applications should be dismissed.

4. The very contention of the applicant/ plaintiff is that he has purchased the suit property from the existing defendants and the proposed party is the newly inducted director of the companies in which the existing defendants are interested. Since the actual possession is with the proposed party under the defendants, the applicant has filed these applications to implead that the proposed party is also a party to the proceedings. The proposed party is said to have actual possession only of the existing defendants and hence the applicant/plaintiff has this application to implead him as the party to the proceedings in order to avoid any technical difficulty.

5. It is up to the applicant/plaintiff to prove before the court how he came to know about the proposed party's actual possession of the suit property through the existing defendants. Since the applicant/plaintiff has stated that he has purchased the suit property from the existing defendants but the possession has not been handed over to him, he is said to have expected, in due diligence, to find out who is in actual possession of the property, and he had taken out these applications to implead the



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proposed party as a party to the proceedings. Hence, in the interest of justice and in order to avoid any future technical difficulties, I feel these applications should be allowed.

6. The learned counsel for the applicant/ plaintiff is directed to carry out the necessary amendment in the plaints within a period of two weeks.

7. List the matter after two weeks.

20.09.2023

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