

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

**WEDNESDAY, THE FOURTH DAY OF JANUARY
TWO THOUSAND AND TWENTY THREE**

PRESENT

THE HONOURABLE SRI JUSTICE SAMBASIVARAO NAIDU

CIVIL REVISION PETITION NO: 2116 OF 2021

Petition under Article 227 of the Constitution of India, against/aggrieved by the order dated 13/12/2021, in I.A No.308 of 2021 in O.S No.63 of 2009 on the file of the court of the V Addl. District Judge, Bhongir.

Between:

EAST City Defence Personnel Welfare Association (ECDPWA), Rep it Secretary Shaik Khadar Mastan, S/o.Shaik Dariya Sahab, Aged about 51 years, Occu.Secretary having registered office at East City, Bibinagar Mandal, Yadadri, Bhuvangiri District, Telangana.

...PETITIONER/PROPOSED PLAINTIFF NO. 3

AND

1. M/s.Name Estates Pvt.Ltd, A company Registered under the companies Act, Having its regd office at 10, Gunrock enclave, Secunderabad Rep by its Chairman and Managing Director Col. Ranga Rao Name (Retd), S/o. Late N V Naidu, aged about 76 years, Occ.Business, R/O 86 Gunrock Enclav, Secunderabad.
2. Medhasant Estates Private Limited, A company registered under the Companies Act, Having its regd office at 1, Gunrock Enclave, Secunderabad, Ref by its Chairman and Managing Director, Dr.(Mrs) Santha Rao Narne, W/o. Col Ranga Rao Name (Retd) aged about 74 years, Occ.Business, R/O 86 Gunrock Enclav, Secunderabad.

...RESPONDENTS NO.1&/PLAINTIFFS

3. Goli Ashok Reddy, S/O.Raji Reddy, Aged about 60 years,
4. Goli Pingal Reddy, S/o.Pratap Reddy, Aged about 48 years.

Both are Agriculturists, R/O.Bibinagar Village and Mandal, Yadadri-Bhuvangiri District.

...RESPONDENTS NO.3&4/DEFENDANTS NO.1&2

IA NO: 1 OF 2021

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to stay all further proceedings in OS No.63 of 2009 on the file of V Additional District Judge, Bhongir in the interest of justice pending disposal of Civil Revision Petition

Counsel for the Petitioners: SRI M DAS MOHAPATRA

Counsel for the Respondent No.1: SRI V V L SUJATHA

Counsel for the Respondent Nos.2&3: None appeared

Counsel for the Respondent No.4: SRI K.JAGADISHWAR REDDY

The Court made the following: ORDER

HONOURABLE SRI JUSTICE SAMBASIVA RAO NAIDU

C.R.P.NO.2116 of 2021

ORDER :

This Civil Revision Petition has been filed by the petitioner Association, a third party to the suit proceedings in O.S.No.63 of 2009 on the file of V Addl. District Judge, Bhongir, and the present revision has been filed by the petitioner under Article 227 of the Constitution of India. This revision is filed against the order of trial Court in I.A.No.308 of 2021 in O.S.No.63 of 2009 dated 13-12-2021, where under the request of the petitioner to implead the said association as plaintiff No.3 to the main suit was dismissed by the trial Court. The petitioner filed the revision petition on the following grounds.

2. The trial Court committed a serious error while deciding the real issues connected to the request of the petitioner. The order of the Court below is against the legitimate property right of the petitioner and is absolutely contrary to law, evidence on record and unsustainable in view of the law settled by the Apex Court. The petitioner further claimed that the impugned order is against the known principle of law, as such it is liable to be set aside. The petitioner also pleaded that the impugned Judgment is

absolutely based on non-application of mind, contrary to law, thereby sought to set aside the said order.

3. Before going to the merits of the petition, it is better to see what was the application preferred before the trial Court and on what grounds it was dismissed. The petitioner is a Society/Association named as "East City Defence Personnel Welfare Association" which is represented by its Secretary. The petitioner moved an application under Order I Rule 10 r/w Section 151 C.P.C. r/w Rule 28 of Civil Rules of Practice before the trial Court with a request to allow the society to be impleaded as third plaintiff in the suit filed by the respondents No.1 and 2. Respondents No.3 and 4 herein are defendants in the said suit. According to the plaint averments, it was the specific case of respondents No.1 and 2/plaintiffs No.1 and 2 that the first plaintiff, who is a registered company purchased land to an extent of Ac.12-20 gts in Sy.No.585 of Bibi Nagar Village from defendant No.1 under a registered irrevocable G.P.A. The plaintiff No.1 was authorized to sell and register the land in favour of the prospective purchasers and to receive the sale consideration. The plaintiff No.1 has claimed that after purchasing the property, they have developed the land into house plots and sold the plots to

prospective purchasers. The plaintiff No.1 further claimed that defendant No.1 i.e., respondent No.3 herein, who is one of the executants of G.P.A. and who has got knowledge about the ownership of plaintiff No.1 on the property has executed another sale deed in favour of defendant No.2/respondent No.4 and the said sale deed was executed without any sale consideration. Therefore, the plaintiffs sought for cancellation of the sale deed executed by defendant No.1 in favour of defendant No.2 and for decree of recovery of possession.

4. The said suit was contested by the defendants who have filed a common written statement disputing the plaint averments. While the suit was pending for trial, the petitioner herein filed the above referred petition and sought to be impleaded as plaintiff No.3. One Shaik Khadar Mastan, the Secretary to the petitioner Association filed his affidavit in support of the petition and submitted that members of the association purchased plots in Project East City Sector-III spread over in 174 acres in various survey numbers. They have verified all the relevant documents pertaining to the property, and they have purchased about 120 plots. Most of the purchasers are jawans and brave soldiers of the nation from defence background. They have purchased the

property with an intention to construct their dream house and to settle in the house after their retirement. They came to know about the suit filed by respondents No.1 and 2/plaintiffs No.1 and 2 against the defendants i.e., respondents No.3 and 4. The petitioner has claimed that it is a proper and necessary party to be impleaded as plaintiff. Therefore, they sought for permission to be added as plaintiff No.3. This application was opposed by the respondents. The learned trial Judge having heard both parties and after referring the record, dismissed the petition vide order dated 13-12-2021.

5. Heard both parties.

6. Now the points for consideration are :

1. Whether the petitioner-Association is a proper and necessary party to O.S.No.63 of 2009 on the file of V Addl. District Judge, Bhongir?
2. Whether the Court below committed an error in dismissing the application, thereby, the order is liable to be set aside?

7. As already stated in the previous paragraphs, the main suit has been filed by the respondents/plaintiffs No.1 and 2 for cancellation of the sale deed executed by respondent No.3/defendant No.1 in favour of respondent No.4/defendant No.2. It was the specific case of respondent No.1/plaintiff that it has purchased vast extent of property, developed the same as house

plots and sold it to prospective purchasers. But subsequently, they came to know about the sale deed executed by defendant No.1 in favour of defendant No.2.

8. The petitioners herein filed application under Order I Rule 10 C.P.C. which clearly provides that any party whose presence is required for proper and complete adjudication of the suit or proceeding can be added as party to the suit. The petitioner herein wanted to be added as plaintiff No.3 without explaining as to how its presence in the suit will influence the disposal. The suit itself was filed by the respondent/plaintiff for protecting the property. The suit is filed for recovery of possession which indicates that plaintiff is not in possession of the property and the said aspect is pending adjudication in the main suit. The respondent No.1 herein having filed a counter categorically stated that it is taking care of interest of all the purchasers and it can prosecute the suit. Therefore, there is no necessity for the petitioner herein to be added as plaintiff No.3. Even if the petitioner is added as party to the proceedings, they cannot stretch the scope of the plaint and obviously they depend on the pleadings already taken by the respondent No.1/plaintiff. The petitioner is not in a position to explain as to how it is a proper and

necessary party for complete adjudication of the suit which was filed by the plaintiff for cancellation of sale deed executed by defendant No.1 and for recovery of property. Therefore, the Court below rightly dismissed the application filed by the petitioner and the said finding cannot be interfered while exercising jurisdiction under Article 227 of Constitution of India. Therefore, the revision is liable to be dismissed.

9. In the result, revision is dismissed.

Consequently, Miscellaneous applications if any, are closed.
No costs.

SD/- MOHD. SANAULLAH ANSARI
ASSISTANT REGISTRAR

//TRUE COPY//


SECTION OFFICER

To,

1. The V Addl. District Judge at Bhongir
2. One CC to SRI. M DAS MOHAPATRA Advocate [OPUC]
3. One CC to M/S V V L SUJATHA Advocate [OPUC]
4. One CC to M/S K. JAGADISHWAR REDDY, Advocate [OPUC]
5. Two CD Copies

KKS



HIGH COURT

DATED:04/01/2023

ORDER

CRP.No.2116 of 2021



DISMISSING THE CRP

⑦ VLV
6/2/23