APHC010135242025

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI **[3206]**
(Special Original Jurisdiction)

FRIDAY, THE SECOND DAY OF MAY
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SRI JUSTICE R RAGHUNANDAN RAO

CIVIL REVISION PETITION NO: 719/2025

Between:

Pampana Venugopal, and Others **...PETITIONER(S)**

AND

Pampana Appala Venkata Udaya Bhaskar and Others **...RESPONDENT(S)**

Counsel for the Petitioner(S):

1. P VEERRAJU

Counsel for the Respondent(S):

1. RAMAKRISHNA AKURATHI
2. SUBBA RAO KORRAPATI

The Court made the following Order:

Heard Sri P. Veerraju, learned counsel appearing for the petitioners and Sri Subba Rao Korrapati, learned counsel appearing for the 3rd respondent.

2. The petitioners herein are the children of respondent Nos.1 and 2. The petitioners filed O.S.No.29 of 2019 before the II Additional District Judge, Visakhapatnam, for partition of the properties described in the schedule to the suit. The case of the petitioners was that the suit schedule

property was joint family property and should be split into three parts, one part being allotted to the petitioners and one part each being allotted to respondent Nos.1 and 2.

3. The suit is said to have been filed on the ground that the petitioners had come to know that the 2nd respondent was proposing to sell away the property mentioned in Schedule-A of the plaint. The 2nd respondent filed a written statement denying these allegations. Subsequently, the 2nd respondent filed I.A.No.615 of 2019 for filing an additional written statement. In this additional written statement, the 2nd respondent sought to bring on record an agreement of sale said to have been entered into with the 3rd respondent herein. This application was dismissed by the trial Court on 22.08.2023. This application was dismissed by the trial Court, on the ground that the 2nd respondent, having denied any intention to sell the property, in her written statement, cannot be permitted to come up with a contradictory plea that she had already entered into an agreement of sale with the 3rd respondent.

4. Thereafter, the 3rd respondent moved I.A.No.834 of 2023 contending that she had entered into an agreement of sale, dated 09.02.2018, for purchasing the property mentioned in Schedule-A of the plaint for a consideration of Rs.3,36,87,500/- and that he had paid Rs.2,20,00,000/- out of this sale consideration. The 3rd respondent contended that despite these payments, the 2nd respondent delayed receiving the remaining consideration

and executing a registered sale deed on the ground that a suit had been filed against her, by her children and that an order of injunction had also come to be passed against her in I.A.No.60 of 2019 on 22.03.2019. The 3rd respondent stated that the 2nd respondent had also informed him that she had filed C.M.A.No.503 of 2019 against the order of injunction and the same came to be dismissed on 17.02.2020. The 3rd respondent further contended that the petitioners and the 1st respondent had convinced the 2nd respondent to repudiate the agreement of sale and for such purpose, had filed O.S.No.29 of 2019, as a collusive suit, to deny the rights of the 3rd respondent. The 3rd respondent also stated that he had filed O.S.No.788 of 2022 before the II Additional District Judge, L.B. Nagar for specific performance of the sale agreement, dated 09.02.2018, and the same is pending. Further she also averred that she had obtained an injunction restraining alienation of the property, vide order, dated 26.12.2022, in I.A.No.1288 of 2022. The 3rd respondent, on the basis of these averments and the averment that he is in possession of the said property, moved the above I.A.No.834 of 2023 to implead himself as a defendant in the suit.

5. This application was opposed by the petitioners. The basic contention raised in defense was that the trial Court had already rejected the attempt of the 2nd respondent to bring on record the alleged agreement of sale dated 09.02.2018 and the same had been rejected by the trial Court and the 3rd respondent cannot be permitted to reagitate this issue. The further defense

was that the 3rd respondent was in no way concerned with the suit for partition and was not entitled to be made a party in the suit as he was not a member of the family. The trial Court, after looking into the various submissions and averments, and the receipts that are said to have been executed by the respondent acknowledging receipt of Rs.2,20,00,000/-, had held that the 3rd respondent has sufficient cause to be impleaded as a party to the suit. On this basis I.A.No.834 of 2023 was allowed by the trial Court by way of order, dated 07.01.2025.

6. Assailing this order, the petitioners have approached this Court.

7. Sri P. Veerraju, learned counsel appearing for the petitioners, while reiterating the grounds of revision, vehemently contended that the alleged agreement of sale dated 09.02.2018 is a fabrication prepared to deny the rights of the petitioners over the family property. He would contend that the 2nd respondent, who is alleged to have signed this agreement of sale, had specifically denied any such agreement in the written statement filed by her as well as in the counter filed in I.A.No.60 of 2019. He would submit that once her attempt to bring in this alleged agreement of sale by way of I.A.No.615 of 2019 had been rejected, the trial Court could not have permitted the 3rd respondent to implead himself on the very same allegation.

8. Sri Korrapati Subba Rao, learned counsel appearing for the 3rd respondent would contend that the 3rd respondent had paid a substantial amount of Rs.2,20,00,000/- to the 2nd respondent and the same has been

acknowledged by way of separate receipts, which are of marked, for the purpose of identification, in the interlocutory application. He would submit that the trial Court, on the basis of these receipts had held that there was a prima facie case for the 3rd respondent to be impleaded, as he had made out a prima facie case of agreement of sale which requires to be looked into while disposing the main suit. He would submit that in such circumstances, the revision petition requires to be dismissed.

9. The Hon'ble Supreme Court, in **Dhanlakshmi and Ors., vs. P. Mohan and Ors**.,[1], cited by Sri Korrapati Subba Rao, had held that though Section 52 of the Transfer of Property Act provides for some protection to a purchaser, it would be appropriate that the persons, who had purchased shares of the co-sharers should be entitled to participate in the enquiry, so as to work out equities that may arise, in favour of such purchasers. Though this judgment was on the basis of an outright sale of the shares of the co-sharers, the principle laid down in the said judgment would also be applicable to a case where an agreement of sale holder had already initiated a suit for specific performance for such agreement.

10. In the present case, the trial Court after going through various receipts, which have been marked as exhibits, demonstrating payment of sale consideration to the 2nd respondent, had taken a view that it would be appropriate to implead the 3rd respondent as a party to the suit, so that he

[1] (2007) 10 SCC 719

could put forth his objections to any partition and the equities that would need to be worked out.

11. This Court is of the opinion that the view taken by the trial Court cannot be termed to be an unreasonable view which requires interference of this Court. The fact that I.A.No.615 of 2019 had been dismissed may not have a bearing on the present case. The allegation of the 3rd respondent is that the suit and the applications filed in the suit were collusive. In such circumstances, the earlier findings of the trial Court in relation to the earlier attempts of the 2nd respondent to place on record the agreement of sale between the 2nd respondent and the 3rd respondent cannot be treated as an obstacle for impleading the 3rd respondent.

12. In the circumstances, this revision petition is dismissed. There shall be no order as to costs. As a sequel, pending miscellaneous applications, if any, shall stand closed.

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R. RAGHUNANDAN RAO, J

Js.

HON'BLE SRI JUSTICE R. RAGHUNANDAN RAO

C.R.P.No.719 of 2025

_____ May, 2025

Js.