



IN THE HIGH COURT OF ANDHRA PRADESH

AT AMARAVATI

[3460]

(Special Original Jurisdiction)

**WEDNESDAY ,THE FIFTH DAY OF FEBRUARY
TWO THOUSAND AND TWENTY FIVE**

PRESENT

THE HONOURABLE SRI JUSTICE NYAPATHY VIJAY

CIVIL REVISION PETITION NO: 1619/2023

Between:

Pothuganti Kantha Reddy and Others

...PETITIONER(S)

AND

Devani Manikyamma and Others

...RESPONDENT(S)

CIVIL REVISION PETITION NO: 1609/2023

Between:

Pothuganti Kantha Reddy, and Others

...PETITIONER(S)

AND

Devani Manikyamma and Others

...RESPONDENT(S)

CIVIL REVISION PETITION NO: 1613/2023

Between:

Pothuganti Kantha Reddy and Others

...PETITIONER(S)

AND

Devani Manikyamma and Others

...RESPONDENT(S)

Counsel for the Petitioner(S):

1. A CHANDRAIH NAIDU

Counsel for the Respondent(S):

1. G SRAVAN KUMAR

The Court made the following:

HON'BLE SRI JUSTICE NYAPATHY VIJAY**C.R.P.Nos.1619, 1609 & 1613 of 2023****COMMON ORDER:**

CRP.No.1619 of 2023 is filed questioning the order dated 23.11.2022 in I.A.No.175 of 2022 in O.S.No.159 of 2014 passed by the Junior Civil Judge, Pattikonda. The I.A. was filed to add the Petitioners as Plaintiff Nos.2 and 3 in the suit.

2. CRP.No.1609 of 2023 is filed questioning the order dated 20.02.2023 in I.A.No.93 of 2023 in I.A.No.706 of 2022 in O.S.No.159 of 2014 passed by the Junior Civil Judge, Pattikonda. The I.A. was filed under Order VI Rule 17 and Section 151 CPC seeking to amend I.A.No.706 of 2022 by adding para 5A and for consequential amendment.

3. CRP.No.1613 of 2023 is filed questioning the order dated 07.03.2023 in I.A.No.706 of 2022 in O.S.No.159 of 2014 passed by the Junior Civil Judge, Pattikonda. The I.A. was filed under Order VI Rule 17 r/w 28 of Civil Rules of Practice seeking to amend the plaint by adding para 3A and for consequential amendment of the plaint.

4. Petitioners are defendants in O.S.No.159 of 2014 originally filed by Respondent No.1 seeking for permanent injunction against the defendants with regard to the agricultural land of an extent of Ac.3.00 cents in Sy.No.8/1 of Yerrabadu Village, Kallur Mandal, Kurnool District. As per

the plaint, the original plaintiff was the absolute owner of the schedule property having purchased the same under registered sale deed dated 02.09.2002. The vendors of the original plaintiff had purchased the schedule property on 14.05.1940 under a registered sale deed. The vendors had purchased the schedule property on 29.12.1936 and certified copy of the sale deed was also filed along with the plaint. Ever since the date of purchase, Respondent No.1 was in possession of the schedule property all through and her name was entered in the Adangal and Pahani. As there was threat of dispossession, the suit was filed.

5. In the written statement filed by the Petitioners, it was contended that the sale deeds pertain to 14.05.1940 and 29.1936 are not showing any boundaries in Sy.No.8/1. Further, it was contended that the schedule property in the said survey number was originally owned by one P.Lakshmi Reddy in an extent of Ac.7.64 cents under a registered sale deed dated 25.05.1949 vide document No.724/1949. In the written statement, it was further pleaded that P.Lakshmi Reddy had died issueless and the properties were devolved to his brother by name P.Nagi Reddy. The said P.Nagi Reddy had three sons and a settlement was arrived with regard to the schedule property and an extent of Ac.5.64 cents was transferred to defendant No.2 i.e. one of the son of P.Nagi Reddy with the consent of other sons. In view of the same, the defendant No.2 became the absolute owner of the property to an extent of Ac.5.64 cents and has been in possession of the same ever since.

6. The copies of adangals for faslis 1423 and 1424 were filed along with the written statement. It was also pleaded that the defendant No.2/Petitioner No.2 had filed O.S.No.119 of 2014 against third persons and the same is pending. The further plea was that P.Lakshmi Reddy also filed O.S.No.28 of 1970 against third parties with regard to the schedule property and the said suit was decreed. While the suit was pending, Respondent Nos.2 and 3 filed the above applications seeking to implead themselves as plaintiff Nos.2 and 3 in the suit and also sought for amendment of the I.A. and plaint.

7. In the affidavit filed by the Respondent Nos.2 and 3, it was stated that they had purchased the schedule property from their mother i.e. Respondent No.1 under a registered sale deed to an extent of Ac.1.50 cents respectively on 21.01.2012. In the amendment application, this fact was sought to be brought in the plaint at Para 3A. These applications were opposed by the Petitioners and contended that proposed amendments change the cause of action of the suit as the suit was filed on the premise that the Respondent No.1 is the absolute owner of the schedule property and is in possession of the same. It was further contended that the proposed amendment would only bring inconsistency in the pleadings and such amendment should not be allowed after commencement of trial.

8. When the case is posted for cross-examination of P.W.1 i.e. Respondent No.1, the trial Court allowed the applications on the ground that the suit is coming for further chief of P.W.1 and chief affidavit is to be

received and documents are yet to be marked and therefore the implead as well as the amendments can be ordered. Hence, the present civil revision petitions.

9. Heard Sri A.Chandraiah Naidu, learned counsel for the Petitioners and Sri G.Sravan Kumar, learned counsel for the Respondents.

10. Learned counsel for the Petitioners submitted that in the original plaint, it was pleaded that the Respondent No.1 was in possession of the schedule property and the factum of sale in favour of Respondent Nos.2 and 3 prior to the institution of the suit was suppressed. It was contended that the very filing of the suit going by the sale in favour of Respondents No.2 and 3, could not have been maintained by Respondent No.1 without disclosing this fact. A judgment of this Court in CRP.No.4145 of 2010 was cited in support of his contention that impleaded party cannot seek for amendment of plaint.

11. Learned counsel for the Respondents contended that in the suit for injunction, the Respondent No.1 had contended that she is in possession and enjoyment of the schedule property and in recognition of her title, Pahanis, Revenue Records were also standing in the name of respondent No.1 and as there was threat of trespass, the suit was filed.

12. Having heard the respective counsel, as the suit is only at the stage of receiving of chief affidavit and marking of documents and effective trial is yet to start and as the amendment is sought prior to the commencement

of effective trial, the applicability of proviso to Order 6 Rule 17 CPC would not arise. The sale in favour of Respondent Nos.2 and 3 is not in dispute and in the application seeking to implead, it was pleaded by Respondent No.3 that Respondent No.1 is acting as manager of the family and had given the lease of the schedule property with their consent. It was also pleaded that revenue records stand in the name of Respondent No.1 and that she is managing the family properties as they were staying at a distant place.

13. The original plaint was on the basis of possession and prior title over the schedule property. Though the sale in favour of Respondent Nos.2 and 3 was not mentioned, the same *per se* may not be of any prejudice to the defendants since their plea in the written statement as stated above was that there are no boundaries to the sale deeds of the vendors of Respondent No.1 and the defendants were claiming the property through an independent source as successors of late P.Lakshmi Reddy.

14. As the impleadment and the consequential amendments do not alter to the defense taken by the defendants, no prejudice can be pleaded and as the suit is only at the stage of receiving the chief affidavit of P.W.1 and marking of documents, the Petitioners/defendants have ample opportunity to defend themselves in this suit. As regards the judgment cited, this Court is of the opinion that once a party is impleaded as a fellow plaintiff, the plaint filed becomes their common plaint and not the plaint of plaintiff

No.1 alone. This dissection of plaint/pleadings is not contemplated in CPC and therefore the contention of Petitioner cannot be sustained.

15. Therefore, this Court does not find any merit in the civil revision petitions and the same are dismissed. However, for the delayed applications by the Respondents, costs of Rs.15,000/- are imposed on them and they shall pay the amount to Petitioners/defendants within two months from today. As a sequel, pending applications, if any, shall stand closed.

NYAPATHY VIJAY, J

Date: 05.02.2025

KLP