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APHC010488622022

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI [3331]
(Special Original Jurisdiction)

MONDAY, THE 29th DAY OF JUNE 2026

PRESENT

THE HONOURABLE SRI JUSTICE SUBBA REDDY SATTI

CIVIL REVISION PETITION NO: 88/2023

Between:

1. Y.CHENNAMMA, W/O. Y.ANJANEYULU, AGED 53 YEARS, OCC. AGRICULTURIST, R/O. GUMMAIAHGARIPALLI, GORANTLA (M)

...PETITIONER

AND

1. G RAMACHANDRA, S/O. G VENKATAPPA , AGE 52 YEARS , RELIGION HINDU , R/O D.NO 1/903 , I WARD MEDRA STREET , GORANTLA TOWN AND MANDAL.
2. K SIDDAIAH SIDDAPPA, S/O K CHINNA VENKATAPPA , OCC RETD EMPLOYEE , R/O GUMMAIAHGARIPALLI , GORANTLA (M) DIED BY LRS
3. NARAYANAMMA, W/O LATE K. SIDDIAH @ SIDDAPPA , AGED ABOUT 80 YEARS , OCC HOUSEWIFE , C/O HARI GUMMAIAHGARIPALLI , GORANTLA (M)
4. PADMAVATHI, D/O LATE K SIDDAIAH @SIDDAPPA , AGED ABOUT 59 ,C/O HARI GUMMAIAHGARIPALLI , GORANTLA (M)

...RESPONDENT(S):

Petition under Article 227 of the Constitution of India, praying that in the circumstances stated in the grounds filed herein, the High Court may be pleased to allow the Revision set aside the order dated 15/07/2022

passed in I.A.No.510/2021 In O.S.No.157/2014 on the file of the Senior Civil Judge. Penukonda, in the interest of justice and pass

IA NO: 1 OF 2023

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 condone the delay of 61 days in the representation of the above CRP in the interest of Justice and pass

IA NO: 2 OF 2023

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 dispense with filing of the certified copy of order in the said I.A.No.510/2021 in O.S.No.157/2014 dated 15.07.2022 on the file of Honourable Senior Civil Judge, Penukonda, and pass

IA NO: 3 OF 2023

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 grant stay all further proceedings in O.S.No. 157/2014 on the file of Hon'ble Senior Civil Judge, Penukonda, Petitioner will suffer irreparable damage and hardship, pending the above Revision in interest of justice and pass

Counsel for the Petitioner:

1. SHAFATH AHMED KHAN

Counsel for the Respondent(S):

1. P NARAHARI BABU

The Court made the following:

ORDER

The unsuccessful third party to the suit, who filed a petition to come on record as party defendant, filed the above revision against the order dated 15.07.2022 in I.A.No.510 of 2021 in O.S.No.157 of 2014 on the file of Senior Civil Judge, Penukonda.

2. Facts of the case, in a nutshell, are that:

a) The 1st respondent herein, being the plaintiff, filed the suit O.S.No.157 of 2014 initially against the 2nd respondent herein, seeking specific performance of the agreement of sale. The 2nd respondent herein i.e., the sole defendant in the suit, died, and his legal representatives were brought on record i.e. respondents 3 and 4 herein.

b) As seen from the averments in the plaint, the plaintiff and the deceased 1st defendant entered into an agreement of sale dated 08.06.2014 in respect of the plaint schedule property. However, the deceased 1st defendant failed to perform his part of the contract, and hence, the suit was filed. The schedule property as per the plaint is, Ac.1.00 cents in S.No.174-1, out of an extent of Ac.3.50 cents pyki.

c) The deceased 1st defendant filed a written statement and contended that the defendant agreed to sell the suit schedule property for Rs.10,00,000/- and the plaintiff agreed to pay Rs.10,00,000/- to the defendant towards sale consideration. On the date of agreement, the plaintiff requested the defendant to mention the sale price as Rs.3,50,000/- to avoid stamp duty and other income tax problems. The deceased 1st defendant had no Pattadar Pass Book on the date of agreement, and the plaintiff agreed to get a Pattadar Pass Book within two months from the Tahsildar, Gorantla, in the name of the defendant for registration. The plaintiff failed to perform his part of the contract.

3. Pending the suit, a third party to the suit, filed I.A.No.510 of 2021 under Order I Rule 10 of CPC to come on record. In the affidavit filed in support of the petition, it was pleaded that the deceased 1st defendant purchased the plaint schedule property from Y.Anjaneyulu, S/o

Y.Narayanppa, under a registered sale deed dated 19.11.2001. He purchased the said property from the deceased 1st defendant under a registered sale deed dated 27.07.2016. The third party came into possession of the property. At the advice of elders, the deceased 1st defendant and his vendor, Y. Anjaneyulu, also joined as parties to the execution of the sale deed dated 27.07.2016. The third party came to know about the filing of suit O.S.No.157 of 2014 and hence, filed the application to add her as 4th defendant to the suit.

4. The plaintiff in the suit filed a counter and opposed the I.A. It was pleaded that the third party purchased the suit schedule property during the pendency of the suit. The proposed party is not a proper and necessary party to the suit and eventually prayed to dismiss the application.

5. The trial court, by order dated 15.07.2022, dismissed the application.

6. Heard Sri Shafath Ahmed Khan, learned counsel for the petitioner and Sri P.Narahari Babu, learned counsel for the 1st respondent.

7. Now, the points for consideration are:

1) **Whether a subsequent purchaser of the property from the deceased 1st defendant, against whom a suit for specific performance was filed by the plaintiff, is a proper and necessary party to the suit?**

2) **Whether the order dated 15.07.2022 in I.A.No.510 of 2021 in O.S.No.157 of 2014 on the file of Senior Civil Judge, Penukonda, suffers from illegality or irregularity?**

8. As seen from the material available on record, the plaintiff filed the suit O.S.No.157 of 2014 seeking specific performance of the agreement of sale dated 08.06.2014. The third party to the suit purchased the plaint schedule property under a registered sale deed dated 27.07.2016.

9. In the counter filed by the plaintiff to the implead petition, it was specifically contended that the implead petitioner has purchased the property pending the suit and hence, he is not a proper and necessary party.

10. The trial court, in its order, observed that the boundaries in the registered sale deed dated 27.07.2016 and the agreement of sale dated 08.06.2014 do not tally. However, the trial Court failed to consider that neither the plaintiff nor the third party is disputing the identity of the property. In fact, the plaintiff in the counter stated that the proposed implead petitioner purchased the property pending the suit. It is not the case of the parties that the deceased 1st defendant possesses another piece of land.

11. The object of sub-rule 2 of Rule 10 of Order I of CPC, is to bring before the Court all persons who are parties to a dispute relating to the subject matter so that the dispute may be determined without delay. It is also a settled principle of law that the rights of a subsequent purchaser of the property, pending suit, are subservient to the rights of parties under the decree, which may be made in the suit. However, the subsequent purchasers claiming rights to the property by way of a registered sale deed through the same vendor and the same property can be added as parties to the suit to avoid the multiplicity of proceedings.

12. A necessary party to a suit is a person whose presence would enable the Court to completely, effectively and properly adjudicate upon all matters and issues and without whom no effective order or decree can be passed. A proper party is a person whose presence enables the court to completely and effectively adjudicate the disputes, though an effective decree can be passed in his absence.

13. Normally, in a suit for specific performance of a contract, a third party may not be necessary if the third party sets up an independent right and title. However, in the case at hand, the third party claimed property through the deceased 1st defendant, and he is not setting up an independent title.

14. Order XXII Rule 10 of CPC prescribes, in cases of an assignment, creation or devolution of any interest during the pendency of a suit, the suit may, by leave of the Court, be continued by or against the person to or upon whom such interest has come or devolved. In the case at hand, as seen from the pleadings available on record, pending suit, the third party purchased the property from the deceased 1st defendant, and hence, he can be a proper and necessary party to the suit.

15. The Hon'ble Apex Court in **Lala Durga Prasad and others Vs. Lala Deep Chand and others**[1], observed thus:

> "40. First, we reach the position that the title to the property has validly passed from the vendor and resides in the subsequent transferee. The sale to him is not void but only voidable at the option of the earlier "contractor". As the title no longer rests in the vendor it would be illogical from a conveyancing point of view to compel him to

[1] AIR 1954 SC 75 : (1953) 2 SCC 509

> convey to the plaintiff unless steps are taken to revest the title in him either by cancellation of the subsequent sale or by reconveyance from the subsequent purchaser to him. We do not know of any case in which a reconveyance to the vendor was ordered but Sulaiman, C.J. adopted the other course in Kali Charan Singh v. Janak Deo Singh [Kali Charan Singh v. Janak Deo Singh, AIR 1932 All 694 : 1932 SCC OnLine All 154] . He directed cancellation of the subsequent sale and conveyance to the plaintiff by the vendor in accordance with the contract of sale of which the plaintiff sought specific performance. But though this sounds logical the objection to it is that it might bring in its train complications between the vendor and the subsequent purchaser. There may be covenants in the deed between them which it would be inequitable to disturb by cancellation of their deed. Accordingly, we do not think that is a desirable solution."

16. This Court in **Golivi Ramanamma Vs. Challa Lakshmi and Others** [2] , held that a subsequent purchaser in a suit for specific performance is a necessary party for a proper adjudication of the suit.

17. The judgment relied on by the trial Court in **Kasturi Vs. Iyyamperumal and others**[3], may not apply to the facts of this case. The observation of the Hon'ble Apex Court in that case is that a person who claims an adverse claim is not a necessary party for effective adjudication of controversies involved in the suit. The presence of such parties could not be said to be necessary. A third party or a stranger to the contract could not be attended to convert the suit of one character into a suit of a different character.

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[2] 2024 SCC OnLine AP 5302 : 2025 (2) ALD 132
[3] AIR 2005 SC 2813

18. In the case at hand, as observed *supra*, the third party is not claiming any independent right. The third party is claiming the right from the same vendor i.e., the deceased 1st defendant, in respect of the suit schedule property. The trial Court failed to exercise the jurisdiction vested with it, and hence, the order impugned brooks interference.

19. Accordingly, the Civil Revision Petition is Allowed. The order dated 15.07.2022 in I.A.No.510 of 2021 in O.S.No.157 of 2014 on the file of Senior Civil Judge, Penukonda, is set aside. I.A.No.510 of 2021 in O.S.No.157 of 2014 stands allowed. The plaintiff shall file an amended copy of the plaint as envisaged under Order VI Rule 18 of CPC from the date of receipt of a copy of this order. No order as to costs.

Since the suit is of the year 2014, the trial Court shall expedite the hearing of the suit, keeping in view the circular issued by this Court vide R.O.C.No.560/OP/CELL/2022, dated 23.11.2022.

As a sequel, pending miscellaneous petitions, if any, shall stand closed.

JUSTICE SUBBA REDDY SATTI

PVD

Whether the order is:

Speaking Yes/No / Recorded Yes/No

Reportable Yes/No / Non-Reportable Yes/No