

HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

C.R.P.No.2170 OF 2016

Between:

1. M/s.Gurukrupa, Tenali,
Rep. By its Managing Partner,
Kundeti Venkata Subrahmanyam,
S/o.Satyanarayana, Aged 60 years,
R/o.D.No.31-7-6/, Sarala Nagar,
Opp.JMJ College, Tenali,
Guntur District.
2. Kundeti Venkata Subrahmanyam,
S/o.Satyanarayana, Aged 60 years,
R/o.Flat No.407, Gurukrupa Apartments,
Opp.JMJ College Sultanabad,
Tenali, Guntur District.

....Petitioners.

Versus

1. Narra Kamala, W/o.Dr.Bapuji,
Aged 53 years, R/o.1304, Forest Hills Road,
Forest Hills, Kentucky, 41527, USA,
Presently R/o.Flat No.406,
Venkata Heights Apartments,
Padamata Lanka, Vijayawada.
2. Kurra Suresh, S/o.Veera Raghavaiah,
Hindu, Aged 61 years, R/o.7 Hyde Park Road,
Sapta, New Jersey-07871.
3. Peravalli Vimala, W/o.Budha Babu,
Hindu, Aged 50 years,
R/o.26 Wharmacliffe Close,
Hadfield, Glossop, Derbyshire,
SK13IQE, U.K.

....Respondents.

DATE OF ORDER PRONOUNCED : 26.07.2023

SUBMITTED FOR APPROVAL:

HON'BLE SRI JUSTICE B.V.L.N.CHAKRAVARTHI

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|---|--------|
| 1. Whether Reporters of Local Newspapers
may be allowed to see the Judgment? | Yes/No |
| 2. Whether the copy of Judgment may be
marked to Law Reporters/Journals? | Yes/No |
| 3. Whether His Lordship wish to see the
fair copy of the Judgment? | Yes/No |

B.V.L.N.CHAKRAVARTHI, J

HON'BLE SRI JUSTICE B.V.L.N.CHAKRAVARTHI

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! Counsel for the Petitioner : Sri N.Sriram Murthy

^ Counsel for the Respondents : Sri M.R.K.Chakravarthy

< Gist:

> Head Note:

? Cases referred:

This Court made the following:

HON'BLE SRI JUSTICE B.V.L.N.CHAKRAVARTHI

CIVIL REVISION PETITION No.2170 OF 2016

O R D E R:

Heard Sri N.Srirama Murthy, learned counsel for Revision Petitioners and Sri M.R.K.Chakravarthy, learned counsel for Respondents.

02. This Revision Petition is directed against the order dated 05.02.2016 passed in I.A.No.923/2015 in O.S.181/2014 on the file of Prl.Senior Civil Judge's Court, Tenali. The I.A.923/2015 was filed by the 1st respondent/plaintiff under I Rule 10 C.P.C. to implead the respondents No.2 and 3 as plaintiffs No.2 and 3 in the suit.

03. The learned counsel for revision petitioners would submit that the respondents No.2 and 3 are not necessary parties, as the plaintiff is contending that the plaint schedule property is her absolute property, fell to her share in the partition, and further, no application was filed by the proposed parties to implead them as plaintiffs or defendants in the suit.

04. The learned counsel for 1st respondent/plaintiff would submit that the disputed property is a part of 2170 sq. yards of site, wherein the proposed parties are also having 2/5 share, and the suit was filed

for declaration of title of the plaintiff and for permanent injunction, and the defendants contending that there was no partition between the plaintiff, her sister and brothers, and the plaintiff is having no right over the plaintiff schedule property, and in the said circumstances, it is necessary to implead the proposed parties as plaintiffs No.2 and 3 for effective adjudication of the issues involved in the suit, and as there is no conflict of interest between the plaintiff and the proposed parties, the plaintiff filed the application to implead them as plaintiffs No.2 and 3 in the suit and they did not oppose the application, and in the said circumstances, the defendants cannot raise any objection as the nature of the suit will not change and no prejudice would be caused to the defendants, if the proposed parties are impleaded as plaintiffs No.2 and 3 in the suit.

05. In the light of above rival contentions the point that would arise for consideration in this Revision Petition is as under:

“Whether the trial Court committed any material irregularity in allowing the application filed by the plaintiff U/o.I Rule 10 C.P.C.?”

06. **POINT:**

The copy of plaintiff would show that the 1st respondent was the plaintiff in the suit and the revision petitioners are the defendants No.1

and 2 respectively in the suit. It is the contention of the plaintiff that she is the absolute owner of the property described in the plaint schedule and that it is a part of 2170 sq. yards of site, which originally belongs to her father, and that he died intestate on 10.08.1999 leaving behind his wife, two sons and two daughters; While so, one of the sons Mr.Subhash Babu pre-deceased his father on 02.03.1998; The plaintiff purchased the shares of her mother and deceased-brother; Therefore, the plaintiff is having 3/5 share in 2170 sq. yards of site; The proposed plaintiffs i.e., 2nd and 3rd respondents are having one share each in the said property; The defendants and others encroached the plaint schedule site belonging to the plaintiff and they laid a passage and therefore, the plaintiff filed the suit for declaration of title and for permanent injunction.

07. The plaint schedule would show that the plaint schedule property is shown as site in an extent of 15 feet width, 236 feet length, out of 2170 sq. yards of house site, located within four boundaries mentioned in the plaint schedule.

08. The revision petitioners in the counter filed by them before the trial Court contended that the plaintiff, her brother and her sister did not partition the property, and therefore, the contention of the plaintiff that the plaint schedule property fell to her share, is false.

09. The learned trial Court held that, the plaintiff herself came forward submitting that the proposed parties having 2/5 share in the total extent of 2170 sq. yards of site, and the schedule property is a part of the said property and therefore, the proposed parties are also having interest in the plaint schedule property; and the Court finds it is necessary to include the proposed parties as plaintiffs No.2 and 3 for effective adjudication of the issues involved in the matter, and in the said circumstances the objections raised by the revision petitioners are not tenable in law.

10. For better appreciation of the rival contentions, Order I Rule 10 (2) CPC is extracted as under:

Court may strike out or add parties – “*The Court may at any stage of the proceedings, either upon or without the application of either party, and on such terms as may appear to the Court to be just, order that the name of any party improperly joined, whether as plaintiff or defendant, be struck out, and that the name, of any person who ought to have been joined, whether as plaintiff or defendant, or whose presence before the Court may be necessary in order to enable the Court effectually and completely to adjudicate upon and settle all the questions involved in the suit, be added.*”

11. The object and role of the above rule is to bring all the persons who are parties to the dispute relating to one subject matter, before the Court so that the dispute will be determined without delay, inconvenience and expenses of separate actions and trials. The Court will be in a position to adjudicate upon and settle all the questions involved in the suit effectually and completely. The sub-rule gives a wide discretion to the Court to meet every case of defect of parties. Order I Rule 10 CPC gives discretion to the Court to add a party with or without application.

12. In the light of above principles of law, the order of the trial Court to implead the proposed parties who are joint owners as plaintiffs No.2 and 3 in the suit for adjudicate upon and settle all the questions effectually and completely is valid. It will avoid multiplicity of proceedings between the parties. The nature of the suit will not change in any manner. No prejudice would be caused to the defendants. In fact, it is beneficial to the defendants, as the judgment and decree delivered in the suit in the presence of proposed parties would also bind them.

13. Hence, filing of formal application by the proposed parties i.e., respondents No.2 and 3 is not necessary as they are required to be

impleaded to adjudicate upon and settle all the issues involved in the suit effectually and completely.

14. In that view of the matter, there are no grounds to interfere with the finding of the trial Court.

15. In the result, the Civil Revision Petition is dismissed. There shall be no order as to costs.

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

B.V.L.N. CHAKRAVARTHI, J.

26.07.2023

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HON'BLE SRI JUSTICE B.V.L.N.CHAKRAVARTHI

C.R.P.No.2170 OF 2016

Note: Mark L.R. Copy

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26th July, 2023

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