

Devarapu Padma and Other Vs. the Guntur Teachers Cooperative Housing

Devarapu Padma and Other Vs. the Guntur Teachers Cooperative Housing

SooperKanoon Citation : sooperkanoon.com/1134860

Court : Andhra Pradesh

Decided On : Oct-11-2013

Judge : L. Narasimha Reddy

Appellant : Devarapu Padma and Other

Respondent : The Guntur Teachers Cooperative Housing

Judgement :

THE HONOURABLE Sr.JUSTICE L.

NARASIMHA REDDY CIVIL REVISION PETITION No.1212 of 2012 Dated 11-10-2013 Devarapu Padma and others...Petitioners The Guntur Teachers Cooperative Housing Building Society Ltd., No.1-2618, rep.

by its Present Secretary Chennupati Haribabu, and others...Respondents Counsel for Petitioners.Sr.G.Rama Chandra Rao Counsel for Respondent Nos.1 to 3,5 to 7, 10 & 11: Sr.N.Subba Rao Counsel for Respondent Nos.8, 9 and 13: Sr.O.Manohar Reddy HEAD NOTE: ?.CITATIONS: HONOURABLE Sr.JUSTICE L.

NARASIMHA REDDY CIVIL REVISION PETITION No.1212 of 2012

ORDER

: The 1st respondent herein filed O.S.No.31 of 2008 in the Court of II-Additional District Judge, Guntur against the petitioners herein for the relief of declaration of

title and recovery of possession.

The trial of the suit is said to have been concluded.

The respondents filed I.A.No.707 of 2011 by invoking Order 1 Rule 10 and Order VI Rule 17 CPC with a prayer to implead the respondents 2 to 13 as plaintiffs 2 to 13 in the suit and to permit them to amend the plaint in several respects including the prayer in the suit.

The petitioners opposed the I.A.by raising several objections.

According to them, the 1st respondent filed interlocutory applications on earlier occasions to implead the respondents 2 to 13 in different batches and even when they were pending enquiry, on the objections raised by them, the 1st respondent has withdrawn the same.

They also raised objections as to the maintainability of the application filed for impleading the respondents 2 to 13 as the plaintiffs and for clubbing of various reliefs.

Other objections were also raised.

The trial Court allowed the I.A., through order dated 18.01.2012.

Hence, this revision.

Sr.G.Rama Chandra Rao, learned counsel for the petitioners.submits that the application filed by the respondents herein was totally misconceived and untenable in law.

He contends that the relief claimed in the I.A.was under different provisions, which are totally unconnected with each other, and still the trial Court allowed the I.A.Learned counsel further submits that in case the respondents 2 to 13 wanted any relief in the form of declaration of title and recovery of possession, they have to file separate suits and there was no basis for them to claim separate and individual reliefs, in respect of different plots.

He contends that several aspects, such as limitation, court fee and the conditions stipulated in Rule 17 of Order VI CPC, arise and the lower court did not address any of them.

Sr.N.Subba Rao, learned counsel for the respondents, on the other hand submits that the necessity to file the application has arisen on account of the objections raised by the petitioners that the 1st respondent is no longer owner of the suit schedule property.

He contends that the 1st respondent, a Society, has since executed the sale deeds in favour of its members i.e., respondents 2 to 13 and in that view of the matter, an application was filed to implead the respondents 2 to 13 as the plaintiffs and for the necessary reliefs.

It has already been observed that in I.A.No.707 of 2011, the respondents have invoked Order 1 Rule 10 CPC on the one hand and Order VI Rule 17 CPC on the other hand.

It is not uncommon that applications are filed to implead strangers as parties to the suit.

However, filing of an application to implead an individual as the plaintiff is almost a rarity.

It would be possible only when an individual who does not have any independent identity, but is sailing with the plaintiffs in all respects and is not claiming any individual claims. In such an extent he can be impleaded as plaintiff, that too at his request.

In certain cases, in addition to the plaintiffs, who were already on record, some of the defendants may be transposed as the plaintiffs or the third parties also can be added as plaintiffs.

Wherever such steps are taken, no independent relief can be claimed on behalf of the persons who were newly added as the plaintiffs.

They must sail with the existing plaintiffs on record.

In this case, however, separate reliefs are sought to be claimed on behalf of each of the persons sought to be added as the plaintiffs.

For all practical purposes, if each plaintiff, who is sought to be added, will be claiming individual and independent relief for him, the question of limitation, court fee and other aspects would arise.

Coming to the relief claimed in terms of Order VI Rule 17 CPC, there was a serious infirmity in the application.

It is only the 1st plaintiff who could have sought for amendment of the plaint.

The question of the relief, amendment of the plaint being claimed by the persons who are yet to become a party to the suit, does not arise.

Further, the proviso to Rule 17 of Order VI CPC places an embargo on the amendment to the pleadings, once the trial of the suit commences.

Though it is not in the form of absolute prohibition, the party has to plead and the Court has to record cogent reasons, as to what prevented the party from taking the plea, which is sought to be introduced through amendment, before the commencement of the trial.

No effort was made by the trial Court in this direction.

Simply by making an observation that the prohibition contained in the proviso is not absolute, amendments, which have serious and far-reaching in nature, were permitted.

The Code of Civil Procedure as well as the Civil Rules of Practice mandate that individual applications must be filed for claiming the relevant reliefs.

Sometimes it may be possible to club more reliefs than one in an application as long as they are supplemental to each other.

By no stretch of imagination, the relief of impleading strangers as parties to the suit, that too as the plaintiffs, on the one hand, and the amendment of the plaint on

the other, can be treated as interconnected with each other.

The order under revision passed by the trial Court cannot be sustained in law.

Hence, the Civil Revision Petition is allowed and the order under revision is set aside.

It is, however, observed that in case the respondents want to pursue the remedies in the existing suit itself, it shall be open to them to do so by filing applications in the correct provisions of law.

It is needless to mention that the trial Court shall consider such applications, duly taking into account the principles that are applicable, in this behalf.

The Miscellaneous Petitions, if any, filed in this Civil Revision Petition shall stand closed.

There shall be no order as to costs.

_____ L.

NARASIMHA REDDY, J dated:11.10.2013

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com