

Narasamma and Others Vs. Habeebjan and Another

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Court : Andhra Pradesh

Decided On : Apr-16-1998

Reported in : 1998(3)ALD661; 1998(3)ALT469

Judge : B.S.A. Swamy, J.

Acts : [Code of Civil Procedure \(CPC\), 1908](#) - Order 1, Rule 10

Appeal No. : CRP No. 571 of 1998

Appellant : Narasamma and Others

Respondent : Habeebjan and Another

Advocate for Def. : Mr. Q. Manohar Reddy, Adv.

Advocate for Pet/Ap. : Mr. R.V. Subba Rao, Adv.

Judgement :

ORDER

1. Aggrieved by the order of the lower Court in IA No.62 of 1996 wherein the application filed by the respondents seeking permission of the Court to come on record as second plaintiff was allowed, the legal representatives of the first defendant filed this revision petition.

2. Heard both the learned Counsel.

3. It is the case of the petitioners that the second respondent herein filed OS No.313 of 1984 on the file of District Munsif Court, Hindupur, seeking relief of permanent injunction against the first defendant, who died pending disposal of the suit. Thereafter, his legal representatives were brought on record. The trial of the suit was commenced on 18-7-1995 and the plaintiff was in the witness box by the time the first respondent herein filed the present IA No.62 of 1996 seeking permission of the Court to come on record by stating that she purchased the property from the plaintiff under a registered sale deed dated 13-4-1987. This application was allowed on 3-12-1997 on payment of costs for firing an application with 11 years delay. Aggrieved by the said order, the present revision petition is filed by the petitioners by contending that the plaintiff has no title to the property and if the first respondent is allowed to come on record after the commencement of the trial, again the matter has to be reopened without any finality and they have to fight the litigation not only against the plaintiff but also her alleged vendee from the beginning by filing a written statement to the claim of the second respondent.

4. Admittedly, the second respondent sold the land in favour of the first respondent after the suit is filed i.e., on 13-4-1987 and the same is hit by the principle of lis pendens. If the plaintiff has no title, as contended by the petitioners herein, she cannot transfer any title, which she herself did not possess by executing the sale deed. Further, the trial is at the threshold and it is always better to allow all the parties to the litigation to come on record so that the dispute can be adjudicated effectively in furtherance of cause of justice. Hence, I feel it is better to allow the first respondent to come on record at this stage instead of throwing her out of the Court on a technical plea which may give rise to fresh litigation, as she can always file a fresh suit impleading the petitioner as one of the party defendants. As already observed that the interest of the petitioners will not suffer in any way and on the other hand, by permitting the first respondent to come on record her case can be established not only against the plaintiff but also her alleged vendee.

5. For all these reasons, I am not inclined to interfere with the order of the Court below. The civil revision petition is accordingly dismissed. No costs.

6. The events that have taken place in this case prove beyond doubt the views expressed by me that a schedule has to be fixed for disposal of the civil cases, like criminal cases also. By such an action, the Court can contain to unscrupulous litigants to come up with frivolous applications during the pendency of the trial, which are being adjourned for years together.

7. In this case it is a simple suit for injunction and the trial did not commence till July, 1995.

8. Having started examination of the plaintiff on 18-7-1995, the same could not be completed by 25-1-1996 and the cross-examination of PW1 has not commenced by the time the present IA is filed, and it is not known how many more witnesses have to be examined and how many more years the civil Court will take to complete the trial in this case. Thereafter, the usual right of appeal is available under Code of Civil Procedure. I am sure between 18-7-1995 and 25-1-1996 the case might have underwent atleast more than six adjournments or even more; As per the practice adopted by the civil Courts all these days of adjournments the parties have to come to the Court, wait till morning to evening and return back to their homes with empty hands. This practice is not only resulting in unnecessary expenditure and also wastage of time which the litigants can spend usefully to eke out his bread. In fact if trial is taken up on day to day basis the Counsel will be able to concentrate on the facts of the case and will be able to do justice to the brief and can come to the crux of the issue that arise for adjudication in the case. On the other hand, if the present practice is allowed the Counsel never evinces any interest till the arguments stage and when he feels that some witness says something he comes with one application or the other to prolong the litigation without any end.

9. Further, by examining the witness in half and postponing the examination and cross-examination the officer will be opening as many number of cases as possible and most of them remain as part-heard matters without any finality and in fact there will be change in officers and ultimately the officer who has to deliver the judgment may not be able to watch the demeanour of the witness and try to elicit the information from the witness which is not being elicited by the Counsel which

will be of importance to the suit.

10. For all these reasons, I am of the confirmed view that if the procedure fixing the schedule for trial of the civil suits is followed, many of the present day ills in keeping the suits pending for pretty long years can be avoided..

11. Place this order before the Honourable the Chief Justice to take a decision in the light of the observations made by me.

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