
(1952) 04 AP CK 0002

In the Andhra Pradesh High Court

Case No : Revision Petition No. 70 of 1951

Balawa

APPELLANT

Vs

Kadappa and Others

RESPONDENT

Date of Decision : 10-04-1952

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 1 Rule 10, Order 7 Rule 10

Citation : AIR 1953 AP 24

Hon'ble Judges : Naik, C.J;Jaganmohan Reddy, J

Bench : Division Bench

Advocate : Gopal Rao Ekbote, for the Appellant; Vinayak Rao Vaidya, for the Respondent

Final Decision : Allowed

Judgement

Jaganmohan Reddy, J.—In this case widow Balawa had filed a suit for an injunction against her own adopted son to restrain him from interfering with her possession with regard to three pieces of land. During the course of the suit, the parties came to a compromise and before a decree could be passed thereon certain reversioners submitted an application stating that they are interested in the suit property as reversioners, and as such they should be impleaded as parties. The lower Court has allowed the petition and ordered that they be made parties. The question for determination in this revision is whether the reversioners are proper and necessary parties.

It is contended by the learned Advocate for the Petitioner that the reversioners have no manner of right to the possession of the land until the widow dies, in a suit for injunction which is designed to safeguard her right to maintain the possession by restraining persons interfering therewith, the reversioners have no locus standing in as much as it is not the spes successions that is being determined in the suit, but the question is whether the possession of the widow could be interfered with by any person, even though he is an adopted son. It is further contended that by the time the widow dies, the reversioners may not be

living in order to exercise their right to possession of the land and at any rate it is always open to the reversioners to file a declaratory suit if there is any cloud over their rights as reversioners after the death of the widow.

2. The counsel for the Respondents urges that inasmuch as the compromise petition gives a piece of land to the adopted son as an adopted son, they are bound to be affected after the death of the widow and therefore they are proper and necessary parties to the suit. He further contends that if the widow is deemed to represent the Estate of the deceased any decision or decree against her will be binding on the reversioners. The point at issue therefore, is whether the question of adoption was at issue in the suit and whether any decision thereon is binding on the reversioners. It appears clear to me that the suit of the widow is only for the limited purpose of safeguarding her possession for which every person is entitled in law to go to a court. The fact that the widow in such a suit admits the validity of the adoption of a Defendant would become extraneous to the issue falling for decision in this case and cannot be binding upon the reversioners.

3. In this view of the matter, the Respondents-reversioners are not proper and necessary parties to this suit. I would, however, like to add that any decision in this suit will not affect the rights of the reversioners, nor will it be binding on them. In the result the revision is allowed and the order of the lower Court is set aside. Considering the special circumstances of the case, no order is made as to costs.

Naik, C.J.

4. I agree.