

(2014) 02 KAR CK 0061

In the Karnataka High Court

Case No : Writ Petition No. 49145/2013 (GM-CPC)

Mahila Co-Operative Bank Ltd.

APPELLANT

Vs

Sri. Jagannatha Rao and Others

RESPONDENT

Date of Decision : 13-02-2014

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Citation : (2014) 02 KAR CK 0061

Hon'ble Judges : H. Billappa, J

Bench : Single Bench

Advocate : K. Rama Bhat, Advocate for the Appellant; Y.K. Narayan Sharma, Advocate for R-1, Advocate for the Respondent

Final Decision : Dismissed

Judgement

H. Billappa, J.—Notice to respondent No. 7 is awaited. However, as the relief is claimed only against the first respondent and respondent No. 7 is only a formal party, the matter is heard on merits.

2. In this writ petition under Articles 226 and 227 of the Constitution of India, the petitioner has called in question, the order dated 24-8-2013, passed by the trial court in O.S. No. 652/2010 on I.A. No. 8 vide Annexure-A.

3. By the impugned order at Annexure-A, the trial court has allowed I.A. No. 8 and has permitted the first respondent to implead the petitioner as party to the proceedings.

4. Aggrieved by that, the petitioner has filed this writ petition.

5. Briefly stated the facts are:

The first respondent has filed suit in O.S. No. 6852/2010 for declaration, partition and separate possession of the suit schedule property. In the said suit, the first respondent has filed I.A. No. 8 to implead the petitioner as party to the proceedings. The trial court by its order dated 24-8-2013 has allowed I.A. No. 8

and has permitted the first respondent to implead the petitioner as party to the proceedings. Therefore, this writ petition.

6. The learned counsel for the petitioner contended that the impugned order cannot be sustained in law. He also submitted that the petitioner is neither a necessary nor a proper party to the proceedings and therefore, the trial court was not justified in allowing the application. Further he submitted that the suit is for partition and the petitioner has nothing to do with the suit and therefore, the impugned order cannot be sustained in law.

7. As against this, the learned counsel for the first respondent submitted that the impugned order does not call for interference. He also submitted that the suit is for partition and during the pendency of the suit, the seventh respondent has mortgaged the suit property in favour of the petitioner and therefore, the presence of the petitioner is required for effective adjudication of the matter. Therefore, the impugned order does not call for interference.

8. I have carefully considered the submissions made by the learned counsel for the parties.

9. The point that arises for my consideration is, Whether the impugned order calls for interference?

10. It is relevant to note, the suit in O.S. No. 6852/2010 has been filed by the petitioner for declaration, partition and separate possession of the suit schedule property. It is stated, during the pendency of the suit the seventh respondent has mortgaged the suit property in favour of the petitioner. Therefore, the presence of the petitioner is required for effective adjudication of the matter. Therefore, the impugned order does not call for interference. There is no merit in this writ petition and therefore, it is liable to be dismissed.

Accordingly, the writ petition is dismissed.