

(2022) 12 TEL CK 0087

In the Telangana High Court

Case No : Civil Revision Petition No. 1182 Of 2022

Masipeddy Rajaiah And 6 Others

APPELLANT

Vs

Bathini Mogili And 9 Others

RESPONDENT

Date of Decision : 08-12-2022

Acts Referred:

Code Of Civil Procedure, 1908 — Order 1 Rule 10

Citation : (2022) 12 TEL CK 0087

Hon'ble Judges : Dr. Chillakur Sumalatha, J

Bench : Single Bench

Advocate : K Venumadhav, Ajay Kumar Kulkarni

Final Decision : Dismissed

Judgement

1. Heard Sri K. Venumadhav, learned counsel for the revision petitioners as well as Sri Ajay Kumar Kulkarni, learned counsel representing respondent No.1.
2. Challenging this Revision Petition is the order that is rendered by the Court of Senior Civil Judge, Huzurabad, in I.A.No.615 of 2015 in O.S.No.3 of 2007 dated 30.11.2021.
3. Upon hearing both the learned counsels and upon perusing the relevant material that is brought on record, following facts could be perceived:
 - i. That the 1st respondent filed a suit vide O.S.No.3 of 2007 for specific performance of agreement of sale.
 - ii. That the petitioners are arrayed as defendant Nos.3 to 9 to the suit. The petitioners 3 to 7 that is defendant Nos.5 to 9 are the legal representatives of the deceased 2nd petitioner/4th defendant.
 - iii. That the petitioners moved an application vide I.A.No.615 of 2015 before the trial Court under Order 1 Rule 10 C.P.C seeking to strike of their names on the ground that they are neither proper parties nor necessary parties to the suit. Their request was dishonoured.

4. Making his submission, learned counsel for the petitioners contends that the petitioners have not executed the suit document i.e., the agreement of sale and therefore arraying them as defendants to the suit is improper. Learned counsel also submits that the petitioners are facing much inconvenience in perusing the matter and no purpose would be served for continuing the suit against them and therefore, they moved an application to strike off their names but the trial Court did not do so. Learned counsel also submits that the dispute, if any, is between the plaintiff and defendant No.1 and hence, by allowing the revision petition, the request sought for, may be granted.

5. On the other hand, learned counsel for respondent No.1/plaintiff submits that the defendant No.3 and 4 are related by blood and during the course of transactions, the defendant No.1 took the plaintiff to defendant Nos. 2 to 4 and the same is narrated in the plaint also. Learned counsel also submits that the property in question consists of different parts where different persons are exhibiting their interest and hence, the suit to be comprehensively disposed of, the petitioners are also added as defendants to the suit. When the impugned order is looked into, this Court finds that learned Judge of the trial Court exhibiting the view that the petitioners herein have even cross examined PW1 and that at the fag end of the trial it is not desirable to allow the application, dismissed the same. The suit was filed in the year 2007. The Interlocutory application in question was moved in the year 2015. It is not the case of the petitioners herein that they have not filed any written statement or that they were not perusing the matter. Such being a case what prevented the petitioners to keep quite till the fag end of the trial is not stated anywhere.

6. No doubt, an application under Order 1 rule 10 can be filed at any stage. But that does not mean that when the defendants have taken a specific defence and subjected the witnesses of the plaintiff to cross examination, they can move an application thereafter. Furthermore, by the contents of the plaint and by the circumstances above projected, this Court is of the view that though not they are necessary parties they are proper parties to the suit. Therefore, this Court is of the view that the order rendered cannot be set aside.

7. Resultantly, the Civil Revision Petition is dismissed.

As a sequel, miscellaneous petitions pending, if any, shall stand closed