
(2007) 09 AP CK 0045

In the Andhra Pradesh High Court

Case No : Civil Revision Petition No. 429 of 2007

Voona Rama Rao

APPELLANT

Vs

Sri Tankala Raghunatham and Another

RESPONDENT

Date of Decision : 10-09-2007

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 1 Rule 10, Order 22 Rule 10
Transfer of Property Act, 1882 — Section 52

Citation : (2007) 6 ALD 821 : (2007) 6 ALT 814 : (2007) 3 APLJ 214

Hon'ble Judges : L. Narasimha Reddy, J

Bench : Single Bench

Advocate : N. Anjana Devi, for the Appellant; G. Ram Gopal, for the Respondent

Final Decision : Dismissed

Judgement

L. Narasimha Reddy, J.—The 2nd respondent filed O.S. No. 208 of 2005 in the Court of Junior Civil Judge, Gajuwaka, against the petitioner, for recovery of possession of the suit schedule property. When the suit was pending, the 2nd respondent is said to have transferred the suit schedule property in favour of the 1st respondent, through the sale deed, dated 20.12.2005. In view of this development, the 1st respondent filed I.A. No. 693 of 2006 under Rule 10 of Order I C.P.C ., to add him as 2nd plaintiff in the suit. The application was opposed by the petitioner, on several grounds. Through its order, dated 01.12.2006, the trial Court allowed the I.A. Hence, this Civil Revision Petition.

2. Smt. Anjana Devi, the learned Counsel for the petitioner submits that nothing was placed before the trial Court, to substantiate the transfer of the suit schedule property in favour of the 1st respondent. According to her, the 2nd respondent is prohibited u/s 52 of the Transfer of Property Act (for short "the Act") from alienating the property during the pendency of the suit. It is also her case that a pendente lite transferee does not have a right to get himself impleaded in a suit and places reliance upon a Judgment of this Court in Chappidi Subbareddy (died) and Others Vs. Chappidi Narapureddy and Others, . Sri G. Rama Gopal, the

learned Counsel for the 1st respondent, on the other hand, submits that the transfer is between respondents 1 and 2 and the petitioner had absolutely nothing to do with the same. He contends that by virtue of the purchase, the 1st respondent steps into the shoes of the 2nd respondent and it hardly makes any difference for the petitioner. He further submits that being a purchaser of the suit schedule property, the 1st respondent is a necessary party to the suit.

3. The suit is instituted by the 2nd respondent against the petitioner for eviction. During the pendency of the suit, the property came to be sold in favour of the 1st respondent by the 2nd respondent. Though the learned Counsel for the petitioner had disputed the very sale, a copy of the sale deed is placed before this Court. Therefore, the contention advanced on behalf of the petitioner, in this regard, cannot be accepted. It is a different thing as to whether the sale suffers from any legal infirmity. As long as there is no dispute between respondents 1 and 2, the petitioner cannot raise any objection, as to the very existence of sale.

4. It is true that Section 52 of the Act protects the parties to a suit from the affect of transfers made in respect of the property, in question, during the pendency of the suit. The prohibition contained in Section 52 of the Act is not absolute in nature. It is only to the effect that the transfer shall not affect the rights of any party to the suit. In other words, if a decree is passed in a suit, the transfer of the property, which is the subject matter of the decree, during the pendency of the suit, cannot have any impact on the executability of the decree. The transfer, as such, made would not become void or illegal and it would be very much binding upon the parties thereto. What Section 52 of the Act mandates is that the transfer would not have the effect of defeating the rights of the parties to the suit.

5. In Chappidi Subbareddy (died) and Others Vs. Chappidi Narapureddy and Others, , a Division Bench of this Court dealt with the rights of a transferee pendente lite to get impleaded in a suit. It was pointed out that it shall be open to such a party to come on record either under Rule 10 of Order I or Rule 10 of Order 22 C.P.C . It was also observed that such a party does not have any absolute right to get impleaded, but the Court can implead that party, if the facts warrant.

6. In the context of being added as parties, the transferees from the plaintiffs, during the pendency of the suit, stands on a slightly different footing from the transferees from the defendants. As regards the former case, the transferee steps into the shoes of the plaintiff and would be entitled to continue the suit almost as a semblance of right. He would be entitled to prosecute the suit with the same vigor as that of the plaintiff. Further, once the transfer takes place, the plaintiff virtually slips away from the field and the whole burden would rest upon the transferee. In case of transfer from the defendant, the impact of Section 52 of the Act would be felt, if only the suit is decreed. The transferee would, at the most, be entitled to claim refund of the consideration or damages, in the event of his being required to part away with the property. He would not be in a position

to oppose or defeat the decree, on the only ground that he acquired the rights vis-a-vis the property.

7. Therefore, the petitioner cannot be said to have suffered any detriment, on account of the transfer made in favour of the 1st respondent. The trial Court examined the matter from the proper perspective and this Court is not inclined to take any different view.

8. Hence, the Civil Revision Petition is dismissed. There shall be no order as to costs.