

HON'BLE SRI JUSTICE S. RAVI KUMAR

CIVIL REVISION PETITION No.244 of 2008

ORDER:

This revision is preferred questioning order dated 03.08.2007 in I.A.No.1483 of 2006 in I.A.No.825 of 2004 in O.S.No.58 of 2003 on the file of II Additional District Judge, Ranga Reddy District.

2. I.A.No.825 of 2004 is a final decree petition filed in O.S.No.58 of 2003 and in that final decree present petition is filed by the proposed parties to implead them as respondent Nos.6 to 34 contending that they are purchasers of part of schedule property involved in the suit. According to petitioners, they purchased residential plots in Sy.No.143, 144, 145 and 150 and are in possession and enjoyment of the same and that their vendors are parties to the final decree proceedings in that partition suit. As petitioners are in physical possession in the vacant site and constructed houses, their presence is necessary even for working out equities at the time of final allotment of shares to the decree holders. This petition was resisted by the trial Court and on a consideration of material placed before it clearly recorded a finding that the descriptive particulars of the property claimed by petitioners in Order I Rule 10 C.P.C. petition is quite different with that of the suit schedule property and also

the property involved in the final decree petition. Considering that aspect of the matter, the trial Court held that the presence of the proposed parties is not necessary and the petition is purposefully filed to delay the final decree proceedings. This revision is filed in the year 2008.

3. Advocate for petitioners submitted that the final decree petition is still pending and an Advocate Commissioner is appointed, who demarcated the properties and that final allotment is not yet made in view of the stay granted in O.S.No.834 of 2006 on the file of II Additional District Judge, Ranga Reddy District. He further submitted that presence of these petitioners, who are small purchasers, is necessary at the time of allotment of the shares to work out the equities and as there is collusion between plaintiff and the vendors of petitioners, presence of petitioners is necessary.

4. I have perused the material papers including the impugned order dated 03.08.2007. It is the specific case of petitioners that they purchased residential plots in Sy.No.143, 144, 145 and 150, which is the subject matter of the suit. The trial Court while referring to the schedule mentioned in I.A.No.825 of 2004 recorded that an extent of Ac.1.20 gts. in Sy.No.145 of Macha Bollaram Village with definite boundaries is the subject matter and the remaining portion of Sy.No.145 is on the west of the schedule property and it is also recorded that the total

extent of Sy.No.145 is Ac.3.20 gts. While recording so the trial Court held that the descriptive particulars given by petitioners are quite different with the suit property that is involved in I.A.No.825 of 2004 i.e., the final decree proceedings. In order to substantiate their claim that their presence is necessary, the minimum expected from petitioners is that to show that the property claimed by them is part and parcel of the property in Sy.No.145 in an extent of Ac.1.20 gts. within the boundaries shown in the final decree proceedings in I.A.No.825 of 2004. Evidently no such material is placed on the other hand from the material it appears that the property claimed by petitioners is distinct and different from that of the suit schedule property. If that is so, as rightly observed by the trial Court this petition is nothing but to delay the final decree proceedings, therefore, I do not find any illegality or jurisdictional error in the order of the trial Court to be interfered by this Court exercising the revisional powers. As seen from the record, the connected C.R.P.No.1857 of 2010 was withdrawn through letter dated 01.12.2014 and this Court dismissed that revision as withdrawn.

5. For these reasons, this revision is dismissed.

6. Miscellaneous petitions pending, if any, shall stand closed. No costs.

S. RAVI KUMAR, J

13th April 2016.

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