

HON'BLE SMT. JUSTICE P.SREE SUDHA
CIVIL REVISION PETITION No.137 of 2022

ORDER

1. This revision is filed by M/s.Prime Properties-petitioner-plaintiff herein aggrieved by the order dated 28.12.2021 passed in I.A.No.431 of 2021 in O.S.No.900 of 2001 on the file of the learned I Additional Senior Civil Judge, Ranga Reddy District at L.B.Nagar, whereby the application filed by the petitioners therein seeking to implead as Defendant Nos.7 and 8 is allowed.

2. The suit O.S.No.900 of 2001 was filed by the revision petitioner seeking for cancellation of sale deed dated 27.12.1991 *vide* Document No.8985 of 1992, for cancellation of the decree dated 25.04.1984 in O.S.No.152 of 1984 and for permanent injunction. Initially, the suit was filed against the third respondent herein and subsequently the other respondent No.3 and subsequently the other respondents were impleaded as defendants. The revision petitioner herein also filed O.S.No.898, 899 and 901 of 2001 for the similar reliefs in respect of other schedule properties. Respondent Nos.3 and 4 herein are Defendant Nos.1 and 2 in all the above four suits. Respondent Nos.1 and 2 herein would state that they purchased Plot

bearing Nos.2B and 2C through a registered sale deeds *vide* Document No.423 of 1995 dated 31.01.1995 and therefore filed implead applications in all the above suits. In fact, they are claiming their rights through false and fabricated sale deed, which is under challenge in O.S.No.900 of 2001 though they have knowledge of the same but at the instance of Respondent Nos.3 and 4 only they filed the present implead application and the trial Court erroneously allowed it contrary to the provisions of law. In fact, there are several litigations between the petitioner herein and Respondent Nos.3 and 4 and members of the third respondent society. The petitioner herein would further submit that the Hon'ble Supreme Court gave the following directions for disposal of O.S.No.898 of 2001 within six months.

- a. The Hon'ble High Court vide orders dated 27.03.2019 in CRP No.391 of 2019 directed as follows "... Since the suit is of the year 2001, the said Court shall decide the suit as expeditiously as possible preferably within a period of six (06) months from the date of receipt of a copy of this order."
- b. The Hon'ble Supreme Court vide orders dated 08.05.2019 in SLP No.11052 of 2019 directed as follows "The Trial Court has been asked to decide the suits within a period of 6 months. We make it clear that individual impleadments of members in future will not, in any manner, either derail or delay further proceedings in the suits. We reiterate that the trial court must decide the suits within a period of 6 months from today."

- c. The Hon'ble Supreme Court vide orders dated 19.08.2020 in Contempt Petition No.433 of 2020 directed as follows "Having heard learned counsel in all the three contempt petitions, we are of the view that the title suits OS Nos.898, 899, 900, 901 of 2001 pending before the first Additional Senior Civil Judge be taken up and decided within a period of six months from today.'

3. The petitioner would also submit that Respondent No.3 society without having any right and title over the schedule property, executed many sale deeds intentionally to defeat the directions of this Court and the Hon'ble Supreme Court and the individual implead petitions are being filing from time to time only to derail the proceedings and to defeat the legitimate right of the petitioner and if it is not curtailed, they may likely to file petitions in batches and it results in gross miscarriage of justice. The petitioner would further contend that Respondent Nos.1 and 2 herein are neither proper nor necessary parties to the suits in O.S.Nos.898, 899. 900 and 901 of 2001 and as such their implead applications ought to have been dismissed. The petitioner would also contend that the trial Court lost sight of the fact that Respondent No.3, predecessor in title of Respondent Nos.1 and 2, is already party to the suits and contesting the same. Respondent Nos.1 and 2 in all four suits claiming that they own two plots without specifying in which suit their claim falls. The total extent of four suits is Ac.167.00

gunts in Sy.No.1007 of Kukatpally Village and Mandal and the claim of Respondent Nos.1 and 2 is only in respect of 2000 square yards and the aforesaid applications were filed after twenty years of knowledge of pendency of the suits. Though they are the members of the Society, they do not have any independent claim over the property. The suit is filed for cancellation of sale deeds executed in favour of Respondent No.3. As Respondent Nos.1 and 2 are claiming rights through Respondent No.3, they cannot be impleaded when Respondent No.3 is actively contesting the suit, and therefore, sought to set aside the order under challenge.

4. I.A.No.431 of 2021 is filed by Respondent Nos.1 and 2 herein under Order 1 Rule 10 CPC to implead them as Defendant Nos.7 and 8 in the suit. They mainly contend that recently they came to know about the filing of the suit for cancellation of sale deeds executed in favour of the society. They would further contend that as they have direct interest in the proceedings and that they are the *bona fide* purchasers of Plot Nos.2B and 2C they are necessary and proper parties to the suit. In the counter filed by the petitioner-respondent-plaintiff it was contended that the petitioners in the application have personal knowledge of pendency of the suit from 2001 onwards

and that they are claiming rights through the second respondent only and not independently and in view of the specific order of the Hon'ble Supreme Court of India in SLP (C) Nos.11595 of 2009 and 18163 of 2010 and the orders of this Hon'ble Court in CRP Review dated 23.02.2018 all the third parties including members of the second respondent society and their associations are directed to approach the appropriate forum for their remedies, if any, and thus, requested to dismiss the petition. Exs.P1 and P2 are marked. The trial Court on considering the arguments of both sides, allowed the petition. Aggrieved by the said order, this civil revision petition is preferred.

5. The trial Court held that even doctrine of *lis pendens* under Section 52 of Transfer of Property Act, 1882 squarely applies to the facts of the case as the purchase by the petitioner therein is prior to the suit, the proposed defendants are necessary parties to the present *lis* and are entitled to be impleaded as Defendant Nos.7 and 8.

6. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondents. Perused the case law cited by both the counsel.

7. Learned counsel for the respondents relied upon a decision reported in **V.NARAYANA REDDY V/s. SMT. ANI NARAYANAN**¹ and submitted that Order 1 Rule 10(2) CPC confers wide discretion upon the Court. If the Court satisfied that party sought to be impleaded is proper and necessary party for adjudication of the issues and such party has a direct interest in the subject matter of the litigation, invariably it is required to implead such a person, as a party to the proceedings. Learned counsel would argue that it is for the Court to consider whether a right of a person could be affected if he is not added as a party. He also relied upon a case law reported in **PANKAJBHAI RAMESHBHAI ZALAVADIYA V/s. JETHABHAI KALABHAI ZALAVADIYA**² in which it was held that Order 1 Rule 10 CPC enables the Court to add any person as a party at any stage of the proceedings, if his presence is necessary in order to enable the Court to effectively and completely adjudicate upon and settle all the questions involved in the suit. Avoidance of multiplicity of proceedings is also one of the objects of the said provision. Order 1 Rule 10(2) gives wide discretion to the Court to deal with such a situation which

¹ 2009 (4) ALT 9

² (2017) 9 SCC 700

may result in prejudicing the interests of the affected party if not impleaded in the suit, and where the impleadment of the said party is necessary and vital for the decision of the suit.

8. Learned counsel for the respondents would further submit that proper and necessary parties can be added at any stage of the proceedings. Initially O.S.No.899 of 2001 is filed by M/s.Prime Properties against M/s.Bhagyanagar Co-operative Housing Society Limited, but later M/s.Bhagyanagar Co-operative Housing Society Plot Owners Welfare Association represented by its Organising Secretary was impleaded as the second defendant as per the orders in I.A.1864 of 2001 dated 31.03.2004. It seems subsequently Defendant Nos.15 to 40, 41, 43 and 44 are impleaded on 23.04.2012 *vide* separate I.As of 2012.

9. Learned counsel for the revision petitioner would submit that there are 2000 plot owners of the Society and if they all go on filing implead petitions, the suit proceedings will never be concluded. He also relied upon the judgment of this Court in C.R.P.No.391 of 2019 dated 27.03.2019 in which it was held that impleadment of petitioners leads to multiplicity of proceedings and cannot be accepted and accordingly the

revision was allowed by setting aside the order in I.A.No.787 of 2018 in O.S.No.898 of 2001 with a specific direction to dispose of the matter within six months from the date of receipt of the order. Against which SLP was preferred by M/s.Bhagyanagar Co-operative Housing Society Plot Owners Welfare Association and the Hon'ble Supreme Court gave direction to decide the title within six months.

10. Learned counsel for the petitioner would mainly contend that M/s.Bhagyanagar Co-operative Housing Society Plot Owners Welfare Association is actively contesting the matter from the beginning and as such there is no requirement for impleading each and every plot owner, and if so, it leads to protracting the litigation. Respondent Nos.1 and 2 herein are members of the Society. Moreover, the suit pertains to the year 2001 and there was a specific direction from this Court as well as from the Hon'ble Supreme Court to dispose of the matter within six months. In spite of such directions from both the Courts and ignoring the said judgments, the trial Court without considering the same allowed the petition paving way to the other plot owners also and it definitely leads to prolonged and unending litigation.

11. No doubt, a petition filed for impleading of the proper and necessary parties can be filed at any stage of the proceedings and an opportunity is to be given to them, if they are directly affected by the result of the suit. But in the case on hand, the plot owners welfare organization is representing on their behalf effectively and as such again each individual plot owner need not come on record by way of filing implead applications and they need not contest the matter independently. Therefore, the order dated 28.12.2021 passed in I.A.No.431 of 2021 in O.S.No.900 of 2001 is liable to be set aside and is accordingly set aside.

12. In the result, the Civil Revision Petition is allowed. No costs.

13. Miscellaneous Petitions, if any, pending in this appeal shall stand closed in the light of this final order.

P.SREE SUDHA, J.

7th APRIL, 2022.
PGS