
(2022) 10 TEL CK 0027

High Court For The State Of Telangana:: At Hyderabad

Case No: Civil Revision Petition No. 219 Of 2019

Tagore Township
Welfare Association

APPELLANT

Vs

B Suguna Bai

RESPONDENT

Date of Decision: Oct. 10, 2022

Acts Referred:

- Constitution Of India, 1950 - Article 227
- Code Of Civil Procedure, 1908 - Order 1 Rule 10, Order 1 Rule 10(2)

Hon'ble Judges: A.Santhosh Reddy, J

Bench: Single Bench

Advocate: C Hanumantha Rao, Gaddam Srinivas

Final Decision: Allowed

Judgement

1. This Civil Revision Petition is directed under Article 227 of Constitution of India to set aside the order, dated 26.12.2018, passed in I.A.No.2158 of

2018 in O.S.No.100 of 2002 on the file of the Principal District Judge's Court, Ranga Reddy District at L.B.Nagar, Hyderabad.

2. O.S.No.100 of 2002 was filed by respondent Nos.1 and 2 against respondent Nos.3 to 5 seeking partition and separate possession of the schedule

A and B properties situated at Tattiannaram Village, Hayathnagar Mandal. Subsequently, respondent Nos.4 to 56 were impleaded in the main suit.

The revision petitioners represented by petitioner No.2, who is the Secretary of Tagore Township Welfare Association (petitioner No.1) filed

I.A.No.2158 of 2018 for impleadment as defendant Nos.57 to 103 in the main suit.

3. Petitioner Nos. 2 to 47 are different plot owners in the lay out in survey Nos.90 and 91 of Tattiannaram Village. The petitioners are bonafide

purchasers of plots in carved layout of survey Nos.90 and 91 of Tattiannaram Village. Initially, one late Maddi Satyanarayana Reddy was the owner

of land in Sy.Nos.90 and 91 of Tattiannaram Village, Abdulapurmet Mandal, Ranga Reddy District. He executed registered General Power of

Attorney (G.P.A.) in favour of one C.V.Ramana Kumar and M.V.Ranga Chary. The G.P.A. holders prepared layout for Ac.24-08 guntas of land in

Sy.Nos.90 and 91 of Tattiannaram village, Abdulapurmet Mandal, Ranga Reddy District. Further the registered sale deeds were executed in favour of

the petitioner and other members of the petitioner-Association.

4. The petitioners further pleaded that said Maddi Satyanarayana Reddy filed a false claim along with Mohd.Khasim in O.S.No.184 of 1989. Said

Mohd.Khasim sought declaration for land in Sy.Nos.90 and 91. While so, the petitioners pleaded that there is no land available in Sy.Nos.90 and 91 to

seek declaration. The entire land has been converted into plots and sold out to third parties and decree was obtained in O.S.No.184 of 1989

fraudulently without the knowledge of the petitioners. The petitioners filed O.S.No.302 of 1990 on the file of Principal Senior Civil Judge and the said

suit has been dismissed vide judgment and decree, dated 08.06.1998. The petitioners preferred appeal in A.S.No.912 of 1999 and the said appeal has

been allowed by this Court vide judgment, dated 23.03.2018. Thereafter, review petitions filed by said Mohd.Khasim were also dismissed vide order,

dated 03.07.2018, and the judgment in A.S.No.912 of 1999 attained finality. The petitioners learnt about the present suit filed for partition by

respondent Nos.1 and 2, wherein the schedule property of sy.Nos.90 and 91 was also included as schedule property for partition between respondent

Nos.1 and 2 and 3 to 5 and as the children of Maddi Satyanarayana Reddy do not have any claim on the registered sale deeds of the members of

petitioner-Association. As such, the petitioners are proper and necessary parties to the said suit and they filed I.A.No.2158 of 2018 to implead them as

defendant Nos.57 to 103 in the main suit.

5. Respondent Nos.1, 2 filed counter opposing the petition on the ground that the petitioners are not necessary and proper parties and the judgment in

A.S.No.912 of 1999 is not binding on them. They have denied the sale of the land of GPA holders in sy.Nos.90 and 91 to third party purchasers.

6. Respondent Nos. 11, 45, 48, 49 and 50 filed counter affidavits denying the case of the petitioners and similarly, respondent No.10 also filed counter

opposing the petition and contended that the petitioners do not have any right in the subject matter of the suit.

7. The trial Court after considering the submissions of both the counsel and after considering the material on record dismissed the impleadment

application to implead the petitioners in the main suit. Aggrieved by the same, the present Civil Revision Petition is filed.

8. Learned counsel for the petitioners submits that the petitioners are the bonafide purchasers of the plots in the lay out in survey Nos.90 and 91 of

Tattiannaram village through registered GPA holders by the owner late Maddi Satyanarayana Reddy and lay out was prepared for Ac.24-08 guntas

and about 285 plots were carved out and the petitioners purchased the said plots under registered sale deeds. The present suit is filed for partition by

the daughters of late Maddi Satyanarayana Reddy, wherein the land in survey Nos.90 and 91 of Tattiannaram is also part of the schedule property.

Since the petitioner-Association representing the other petitioners filed the present application to implead them as proposed defendants in the main suit,

otherwise the valuable right claimed by the petitioners would be defeated. In support of his contentions, he relied on the following decisions:

i) Pankajbhai Rameshbhai Zalavadiya v.Jethbhai Kalabhai Zalavadiya (2017) 9 Supreme Court Cases 700.

ii) Pruthvirajsingh Nodhubha Jadeja (Dead) by Legal representatives v.Jayeshkumar Chhakaddas Shah (2019) 9 Supreme Court Cases 533.

ii) S.P.Chengalvaraya Naidu (Dead) by Lrs.v.Jagannath (Dead) by Lrs. And others (1994) 1 Supreme Court Cases 1.

iii) A.V.Papayya Sastry v.Govt.of A.P. (2007) 4 Supreme Court Cases 221

iv) Badami (Deceased) by Her Lr v.Bhali. (2012) 11 Supreme Court Cases 574

v) Janardhanam Prasad v.Ramdas. (2007) 15 Supreme Court Cases 174

vi) Satya Pal Anand v.State of Madhya Pradesh (2016) 10 Supreme Court Cases 767.

vii) Mumbai International Airport Private Limited v.Regency Convention Centre and Hotels Private Limited (2010) 7 Supreme Court Cases 417.

vii) Charu Kishor Mehta v.Prakash Patel Special Leave Petition (C)No.11030/2022.

He also relied on the order of this Court in CRP.No.137 of 2022, dated 07.04.2022.

9. Learned counsel for respondent Nos.1 and 2 submits that the trial Court has rightly refused to implead the members of the petitioner-Association as

defendant Nos. 57 to 103. He further submits that the petitioners have not filed any documents to show the ownership over plots in sy.Nos.90 and 91

and they have no locus standi to file the present petition. He also submits that the revisional Court cannot consider the documents which are being

produced before this Court. He relied on the judgment of Bhukya Aruna v. ARKS Cold Storage Ltd., Hyderabad 2008(5) ALD 53.

10. Learned counsel for respondent Nos.11, 45, 48, 49 and 50 submits that after death of Maddi Satyanarayana Reddy, his wife along with her

children succeeded to the schedule properties and sold entire property total admeasuring Ac.70-39 guntas situated at Tattiannaram village. He further

submits that the family members of late Maddi Satyanarayana Reddy filed the present suit for partition and trial has been completed and the suit is

coming up for submissions of both the counsel. The petitioners have filed the present application to implead as defendants belatedly without any locus

standi. As such, the trial Court has rightly dismissed the application and the impugned order does not suffer from illegality.

He relied on the following decisions:

i. Mumbai International Airport Private Limited v.Regency Convention Centre and Hotels Private Limited (2010) 7 Supreme Court Cases 417.

ii) Raja Pushpa Properties Pvt. Ltd., Hyderabad v.B.Venkatamma 2020 (4) ALD 281 (TS).

iii) Kasturi v.Iyyamperumal (2005) 6 Supreme Court Cases 733.

iv) Bhukya Aruna v.ARKS Cold Storage (P) Ltd., Hyderabad, 2008(5) ALD 53.

v) M.Revenna v.Anjamma (Dead) by Legal Representatives (2019)4 Supreme Court Cases 332.

vi) Sogra Begum v.Ghousia Begum 2017(5) ALD 122.

vii) M/s.Prime Properties, a registered partnership firm, Rep.by its Partner and Authorized Rep, Sri Najeeb Ahmed v.Mr.Alam Khan and others

CRP.No.136 of 2022 (dated 07.04.2022).

11. Thus, after hearing the submissions of both the counsel and having perused the material on record and the decisions relied by both the parties, the

point that arises for consideration is, whether the order, dated 26.12.2018, passed in I.A.No.2158 of 2018 in O.S.No.100 of 2002 is sustainable under

law?

12. Initially, on consideration of the impugned order, it would disclose that the suit was filed for seeking partition and separate possession by

respondent Nos.1 and 2 against respondent Nos.3 to 5 herein in the year 2002.

Thereafter, defendant Nos. 4 to 56 have been impleaded in the main

suit. There are about 54 third party purchasers who allegedly purchased plots in Sy.Nos.90 and 91 of Tattiannaram village. The petitioners except

making statement have not filed any documents and did not furnish details about their ownership over the plots which are allegedly situated in

sy.Nos.90 and 91 of Tattiannaram Village and held there are no locus standi to the petitioners to be impleaded as defendants in the main suit and they

are not necessary and proper parties in the suit for partition and refused the application.

13. The suit in O.S.No.100 of 2002 was filed by respondent Nos.1 and 2 seeking partition of schedule A and B properties. The schedule A property

contains land in survey No.90 and 91 situated at Tattiannaram village from the GPA holders of late Maddi Satyanarayana Reddy. The petitioners

would further submit that the possession over the schedule plots and title and ownership of their respective plots in survey Nos.90 and 91 have been

adjudicated in A.S.No.912 of 1999 and the same has been attained finality. The petitioners would further submit that when they learnt about filing of

suit, they moved the present application to implead them as defendant Nos.57 to 103.

14. In Pankajbhai Rameshbhai Zalavadiya v.Jethabhai Kalabhai Zalavadiya (2017) 9 SCC 700, the Hon'ble Apex Court held at para No.10 held

as under:

“ Order 1 Rule 10 of the Code enables the Court to add any person as a party at any stage of the proceedings, if the person whose

presence in Court 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 of the Code

empowers the Court to substitute a party in the suit who is a wrong person with a right person. If the Court is satisfied that the suit has been

instituted through a bona fide mistake, and also that it is necessary for the determination of the real matter in controversy to substitute a

party in the suit, it may direct it to be done. When the Court finds that in the absence of the persons sought to be impleaded as a party to the

suit, the controversy raised in the suit cannot be effectively and completely settled, the Court would do justice by impleading such persons.

Order 1 Rule 10(2) of the Code gives wide discretion to the Court to deal with such a situation which 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.”

15. A perusal of the entire material on record would disclose that the petitioners have also filed copies of registered sale deeds to show that they are

the owners of different plots situated in survey Nos.90 and 91 situated at Tattiannaram village and having purchased the same from the GPA holders

of late Maddi Satyanarayana Reddy. They have also filed copies of judgment in A.S.No.912 of 1999 wherein their title and ownership has been

attained finality.

16. Since the present suit is filed for partition by respondent Nos.1 and 2, wherein the schedule property would clearly indicate the land in survey

Nos.90 and 91 of Tattiannaram village which was already sold by Maddi Satyanarayana Reddy through GPA holders and the petitioners acquired title

through registered sale deeds to their respective plots by forming themselves as Tagore Township Welfare Association represented by petitioner on

behalf of other petitioners filed the present application.

17. It appears that O.S.No.100 of 2002 was filed for partition, wherein evidence was adduced by both parties and the case is coming-up for

arguments of both parties. However, having regard to the fact that the case of petitioners, it is settled principle of law that a petition can be filed for

impleadment of proper and necessary party at any stage of the proceedings and liberty is given to them if they are directly affected by the result of the

suit. Since the petitioners claim that their title and ownership in respect of plots situated in survey Nos.90 and 91 which is part of schedule properties in

the said suit and the documents filed by them would clearly fortify their contention that they have purchased the said plots under registered sale deeds

from GPA holders as stated supra. As such, the property has been purchased under valid documents their title and ownership has been adjudicated by

this Court in A.S.No.912 of 1999. In the appeal suit, the petitioners succeeded and established their title and ownership and the same has been

attained finality.

18. In view of the foregoing discussion, I feel that the petitioners are proper and necessary parties for effective adjudication of the suit and they

entitled to be impleaded as parties. If they are not impleaded as parties in the suit filed by respondent Nos.1 and 2, any decree that may be passed in

their favour would again subject to further multiplicity of litigation and impleadment of these petitioners for effective adjudication of the interest of the

parties would be at once can be disposed of.

19. In view of the foregoing discussion, I am of the view that since the petitioners have established their title basing on the documents filed herein that

they have direct and substantial interest in the subject matter of suit and such interest would affect directly by the decree that may be passed in the

present partition suit and as such, their presence as parties to the suit is necessary. Therefore, the impugned order suffers from infirmities and liable to

be set aside.

20. In the result, the Civil Revision Petition is allowed. The order impugned, dated 26.12.2018, passed in I.A.No.2158 of 2018 in O.S.No.100 of 2002 is

set aside. As a sequel, I.A.No.2158 of 2018 is allowed. There shall be no order as to the costs. Pending miscellaneous applications, if any, shall stand

closed.