

(1995) 07 AP CK 0004

Andhra Pradesh High Court

Case No: C.M.P. No. 20823 of 1994 in CRP (SR) No. 64932 of 1994

M. Venkata Subbaiah

APPELLANT

Vs

K. Chanchu Obaiah and Others

RESPONDENT

Date of Decision: July 11, 1995

Acts Referred:

- Civil Procedure Code, 1908 (CPC) - Order 6 Rule 17

Citation: (1995) 2 ALT 771

Hon'ble Judges: Y.V. Narayana, J

Bench: Single Bench

Advocate: Y.G. Krishnamurty, for the Appellant; M.V.S. Suresh Kumar, for the Respondent

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

Y.V. Narayana, J.

This petition is filed by the petitioner, who is not a party to the impugned order, to grant leave to prefer the C.R.P. against the order in I.No.47 of 1994 dated 13-9-1994 passed by the Subordinate Judge, Kovur.

2. The brief facts of the case are as under: The respondents herein filed O.S. No. 530 of 1981 on the file of the District Munsif, Atmakur for specific performance of a contract of sale in respect of the suit schedule property in pursuance of the sale agreement dated 15-6-1973 said to have been executed by K. Pitchaiah. The suit was resisted by the defendants contending that the alleged agreement of sale was a forged one. An issue was also framed in that regard which was found in favour of the plaintiffs and the suit was decreed. Against that the defendants preferred appeal A.S. No. 4 of 1990 before the Subordinate Judge, Kovur. In that appeal the appellants 3 and 4 filed LA. No. 67 of 1994 under Order VI Rule 17 C.P.C. seeking amendment of the written statement by taking the plea of legal necessity. The respondents herein contested the said application. The appellate Court after hearing the parties

dismissed the said petition, holding that/the amendment sought for will cause prejudice to the respondents.

3. Against that order, assailing the same as illegal and improper, the petitioner herein who is not a party to that application, filed the present revision.

4. The learned Counsel for the petitioner contended that the amendment sought for would not cause any prejudice to the respondents as it only introduces that the agreement of sale is not for the benefit of the estate nor for any legal necessity of the family. On the other hand the Counsel for the respondents contended that the amendment, if allowed, would cause prejudice to the case of the respondents and it is only to fill up the lacuna in the case. The Court below, after considering the entire material, held that the amendment would definitely cause prejudice to the case of the respondents because there is already a finding given by the trial Court and the amendment sought for would dilute the other findings recorded by the trial Court. Thus holding the Court below very rightly dismissed the said application. I see no grounds to grant leave to the petitioner, who is not a party to the said petition, to file the civil revision petition. Leave rejected and the petition is dismissed. Consequently the C.R.P. (SR) No. 64932 of 1994 is rejected. No costs.