

HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

A.S.No.710 of 2011

Date : 19-2-2015

Between:

Botta Mangamma and others ..
Appellants

And

Botta Kesava Kumari ..
Respondent

Counsel for appellants : Mr. Meka Rajasekhara Reddy
Counsel for respondent : Mr. M.N. Narasimha Reddy

The Court made the following :

ORDER:

The appeal is taken up for hearing and disposal at the interlocutory stage with the consent of the learned counsel for both parties.

The respondent has filed O.S.No.561 of 2007 on the file of the learned V Additional Senior Civil Judge (FTC), Vijayawada, for partition of the plaint schedule properties into six equal shares and allotment of five shares to him, for grant of mesne profits and for permanent injunction in respect of the said share against the appellants. The lower Court, by Judgment and decree dated 23-3-2011 decreed the suit. Feeling aggrieved by the same, the appellants/defendants have filed this appeal.

At the hearing, Mr. M.N. Narasimha Reddy, learned counsel for the respondent, has submitted that a compromise memo has been drafted with the consent of the parties; that the same is sent for their signatures and that the same is awaited. He has further submitted that even dehors the said compromise memo, his client is satisfied with the 5/6th share in item Nos.2, 3 and 4 of the suit schedule

properties in respect of which alone the present appeal is filed.

Mr. Meka Rajasekhara Reddy, learned counsel for the appellants submitted that in respect of item Nos.2 and 3, appellant No.1 may be allotted $\frac{1}{6}$ th share. He further submitted that the lower court has allotted 80 sq. yards out of 300 sq. yards comprised in item No.4 to appellant No.2 and the balance share to the respondent. He has further submitted that if appellant No.1 is allotted $\frac{1}{6}$ th share out of the remaining 220 sq. yards, his clients will be satisfied.

The learned counsel for the respondent has acceded to this request.

In the light of the consensus reached between the counsel for the parties, the appeal is disposed of in the following terms:

- (a) The respondent is entitled to $\frac{5}{6}$ th share in item Nos.2 and 3 of the suit schedule properties and appellant No.1 is entitled to $\frac{1}{6}$ th share in the said two items of properties.
- (b) In item No.4, the respondent is entitled to $\frac{5}{6}$ th share out of 220 sq. yards remaining after allotment of 80 sq. yards to appellant No.2 under the decree passed by the lower Court and appellant No.1 is entitled to $\frac{1}{6}$ th share in the said property.

The Judgment and decree of the lower Court is accordingly

modified to the above extent.

As a sequel to the disposal of the appeal, ASMP
No.1288 of 2014 is disposed of as infructuous.

Justice C.V. Nagarjuna Reddy

Date : 19-2-2015

AM