

**THE HON'BLE SRI JUSTICE R. SUBHASH REDDY**

**CIVIL REVISION PETITION No.1805 OF 2010**

**ORDER:**

This Civil Revision Petition, under Article 227 of the Constitution of India, is filed aggrieved by the order, dated 13.04.2010, passed in G.L.No.2230 of 2010 in A.S.No.\_\_\_\_ of 2010 by the learned II - Additional District Judge, Vijayawada.

The petitioner filed O.S.No.250 of 2003 on the file of learned

I - Additional Senior Civil Judge, Vijayawada, for declaration that the 'B' schedule properties are the ancestral properties of himself and defendant No.1; for consequential partition of 'B' schedule properties; for passing preliminary decree and partition of plaint 'A', 'B' and 'C' schedule properties into two equal shares; for allotment of one such share to him; and for permanent injunction. The said Suit was decreed in part with regard to 'A' and 'B' schedule properties; with regard to 'C' schedule property, the same was allotted to respondent No.2 – defendant No.3, and the Suit was dismissed with regard to rest of the Suit claim. Aggrieved by the disallowed portion of the reliefs, the petitioner preferred an appeal before the learned II - Additional District Judge,

Vijayawada, but the office has taken an objection that the decree was not in conformity with the judgment and returned the appeal. Thereafter, the petitioner resubmitted the appeal stating that as the judgment and decree are questioned in the appeal, the appellate Court can as well order for correction of the decree, but the said contention was not accepted and the appeal was returned by impugned order, dated 13.04.2010, with a direction to the petitioner to comply with the objections.

It is clear from the provisions under Section 152 C.P.C. that if a decree is not in conformity with the judgment or, if there are any clerical or arithmetical errors in a decree, the Court which passed the judgment and decree is only empowered to correct such decree. Therefore, it is not open to the petitioner to resubmit the appeal by seeking correction of decree by the appellate Court, even before the appeal is numbered. Hence, I do not find any illegality in the impugned order, so as to interfere with the same under Article 227 of the Constitution of India.

Accordingly, the revision petition is dismissed. However, it is made clear that if the petitioner seeks correction of decree by filing appropriate application before the trial Court, it is open to the trial Court to pass appropriate orders in accordance with law.

Miscellaneous Petitions, if any, pending shall stand closed. No costs.

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**R.SUBHASH**

**REDDY, J**

27<sup>th</sup> January, 2015  
MD