

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH**

C.R.P. No.5033 of 2015

Between:

Boyina Srinivasa Rao

...

Petitioner

And

Vanguru Nacharamma and others

...

Respondents

JUDGMENT PRONOUNCED ON 11.12.2015

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THE HON'BLE SRI JUSTICE G. CHANDRAIAH

1. Whether Reporters of Local newspapers
may be allowed to see the Judgments? :
2. Whether the copies of judgment may be
marked to Law Reporters/Journals. :
3. Whether their Ladyship/Lordship wish to
see the fair copy of the Judgment? :

THE HON'BLE SRI JUSTICE G. CHANDRAIAH

C.R.P. No.5033 of 2015

ORDER:

This revision petition has been filed challenging the order dated 30.06.2015 passed in G.L.No.2242 dated 25.03.2015 in O.S. No.196 of 2013 by the II Additional District Judge, Vijayawada.

O.S. No.196 of 2013 was filed by the plaintiffs, who is 1st respondent herein, for partition claiming joint possession with the defendants. While so, writ petitioner, who is 4th defendant in the suit, filed G.L. No.2242 of 2015 in the said suit with a request to reject the plaint.

The Court below vide its impugned order dated 30.06.2015 rejected the said application. Aggrieved by the same, the petitioner filed the present revision petition.

As could be seen from the impugned order, the Court below found that on perusal of the pleadings the plaintiffs pleaded that they are in joint possession of the plaint schedule properties and the petitioner/ 4th defendant denied such pleadings and contended that the plaintiffs were not in joint possession of the plaint schedule properties as on the date of filing of the suit. Since there are denial of the factum of joint possession it is a question of fact and law and as such, at the threshold, the plaint cannot be rejected on the ground that intentionally the plaintiffs filed the suit with false averment of joint possession. Further, it is also found that the suit is coming up for framing of issues. The issue of Court fee also can be framed as one of the issues and the appropriate findings can be given after adducing evidence by the parties and if it is necessary Court fee can be recovered from the plaintiffs.

In that view of the matter, I do not see any reason to interfere with the impugned order as it does not suffer from any legal infirmity and therefore, the same is liable to be dismissed.

Accordingly, this revision petition is dismissed.

As a sequel, miscellaneous petitions, if any, stands closed.
There shall be no order as to costs.

JUSTICE G.CHANDRAIAH

Date: 11.12.2015
LSK