

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CIVIL REVISION PETITION No. 1764 of 2015

ORDER:

Aggrieved by the order, dated 24.03.2015 passed in I.A.No.17 of 2014 in O.S.No.5 of 2012 on the file of the VI Additional District Judge, Godavarikhani, the petitioners, who are defendant Nos.2 and 3 in the said suit, preferred the present Civil Revision Petition under Article 226 of the Constitution of India.

For the sake of convenience, the parties hereinafter referred to as arrayed before the trial Court.

The facts in issue are as under:

Plaintiff Nos.1 and 2, who are Respondent Nos.2 and 3, herein filed the above suit for partition and separate possession and to allot 1/3rd share to the plaintiffs in the suit schedule properties. During the pendency of the suit, respondent No.1 herein filed a petition under Order 1 Rule 10 of C.P.C. praying to add her as one of the defendants in the suit since she is the daughter of defendant No.1 and she is also having a share in the suit schedule properties.

Plaintiff No.1 filed counter admitting the relationship between the parties and contended that the proposed party who is the respondent No.1 herein is not having any share and she is not a necessary party to the suit. After hearing both sides, the Court below allowed the said petition. Challenging the same, defendant Nos.2 and 3 filed the present revision.

The main ground urged by the learned counsel for the

petitioners is that though they have filed counter along with the material documents but the same was not considered by the trial Court. According to him the said aspect is reflected in the order itself, wherein it is mentioned that the respondents in I.A. did not file any counter. The said fact is not disputed by the learned counsel for respondent No.1 herein.

In view of the above, the order under challenge is set-aside and the matter is remanded back to the Court of VI Additional District Judge, Godavarikhani, to hear the matter afresh by taking into consideration the counters filed by the defendants and pass orders in accordance with law within a period of eight (08) weeks from the date of receipt of a copy of this order.

With the above direction, the Civil Revision Petition is disposed of. There shall be no order as to costs. Miscellaneous Petition, if any, pending in this Civil Revision Petition, shall stand closed.

**JUSTICE C. PRAVEEN
KUMAR**

04.09.2015

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