

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

CRP.Nos.4384 and 4933 of 2014

COMMON ORDER :

These two Revisions arise out of the same suit between the same parties. So they are being disposed of by this common order.

2. The petitioners are third parties in O.S.No.434 of 2009 on the file of Senior Civil Judge, Bhimavaram.

3. The said suit had been filed by 1st respondent against respondent nos.2 and 3 for partition of the plaint schedule properties therein, and for separate possession of her half-share.

4. Initially, a preliminary decree was passed on 16.06.2011. Later final decree was also passed on 08.11.2013 in FDIA.No.1188 of 2011 in O.S.No.434 of 2009.

5. At that stage, petitioners herein filed I.A. (S.R.)No.4273 of 2014 under Order 9 Rule 13 C.P.C. to set aside the preliminary decree and I.A.(S.R.).No.4274 of 2014 to add the petitioners in the suit as defendant nos.3 and 4.

6. Both these applications were returned by the Court below on the ground that they were not

maintainable. It held that the application I.A. (S.R.)No.4273 of 2014 filed under Order 9 Rule 13 C.P.C. is not maintainable since the petitioner is not a party to the suit. It also dismissed I.A.(S.R.).No.4274 of 2014 filed by petitioners to add them as parties to the suit invoking Order 1 Rule 10(2) C.P.C. on the ground that the suit itself had been disposed of.

7. Although the counsel for petitioners sought to contend that the orders passed by the Court below are incorrect, he does not dispute the fact that the *ex parte* preliminary decree in the above suit was passed on 16.06.2011 and the final decree had also been passed on 08.11.2013. It is only thereafter that the petitioners sought to get impleaded in the suit. Once the suit is disposed of, interlocutory applications cannot be filed to get impleaded in the suit. Since the petitioners are not parties to the suit and they are not arrayed as defendants, they cannot also file applications under Order 9 Rule 13 C.P.C.

8. Therefore, I do not find any merit in the Revisions, and CRP.Nos.4384 and 4933 of 2014 are accordingly dismissed. No order as to costs.

9. The petitioners are given liberty to avail any other remedy available to them.

10. As a sequel, miscellaneous petitions pending, if any, in these Revisions shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 28.08.2015

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