

HONOURABLE SRI JUSTICE S.RAVI KUMAR

SECOND APPEAL No.344 of 2015

Dated 27-11-2015

Between:

Pati Venkateswar Rao and another.

...Petitioners.

And:

Pati Satyanarayana and another.

...Respondents.

HONOURABLE SRI JUSTICE S.RAVI KUMAR

SECOND APPEAL No.344 of 2015

JUDGMENT:

This appeal is preferred challenging judgment in A.S.No.107 of 2013 dated 4th February, 2015 on the file of Principal District Judge, Khammam whereunder judgment in O.S.No.137 of 2007 dated 14-8-2013 on the file of Senior Civil Judge , Khammam, is confirmed.

Appellants herein are unsuccessful plaintiffs who filed suit for partition of plaint schedule properties and both trial court and appellate court on a consideration of oral and documentary evidence held that plaintiffs cannot make any claim for partition over the suit schedule properties and accordingly, refused the relief. Now the appellants contended that the following are the substantial questions of law that arise for consideration of this court in the Second Appeal.

- a. *Whether the appellate court erred in rejecting the claim of the appellants/plaintiffs relying on Ex.A.5 i.e., Medical records, dated 2-10-1982.*
- b. *Whether the appellate court is justified in holding that the alienations of suit schedule properties made by the defendant No.1 for the welfare of the family.*
- c. *Whether the appellate court is justified in adjudicating the appeal without looking into the legal aspects of the alienations made by the defendant No.1.*
- d. *Whether the appellate court is justified in arriving at a proper and*

correct conclusion that the respondents/defendants proved their case that the schedule properties purchased as per law.

- e. *Whether the appellate court is justified in confirming the judgment and decree of the trial court.*
- f. *Whether the appellate court had properly appreciated the questions of law relating to the burden of proof in the case.*

Subsequently, application in S.A.M.P.No.2305 of 2015 is filed requesting this court to permit the plaintiffs to take additional grounds as substantial questions of law and according to the plaintiffs, following are the additional grounds which are substantial questions of law.

- 1. *Whether learned courts below justified in rejecting the claim of the appellants for partition without deciding the issue whether the respondent No.1 alienated the properties for the benefit of joint family or not.*
- 2. *Whether alienations affected and as claimed by the defendant No.1 is bonafide or not since allegedly sold the properties to the son of the defendant No.2.*
- 3. *Whether the learned appellate court failed to appreciate the oral and documentary evidence in a proper perceptive manner to determine the issue in favour of the appellant.*

All the above original grounds and additional grounds are in respect of factual matrix and none of the grounds disclose any law that is not followed by the courts below nor that trial court and appellate court have not followed a particular provision.

As per Section 100 of C.P.C., where there is substantial question of law, only a second appeal has to be admitted. Here there is no question of law leave alone substantial question of law, therefore, appeal cannot be entertained.

Accordingly, this Second Appeal is dismissed at the admission stage. No costs.

As a sequel to the disposal of this appeal, the Miscellaneous Petitions, if any, pending, shall stand dismissed.

JUSTICE S.RAVI KUMAR

Dated 27-11-2015.

Dvs.

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Dvs