

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

CIVIL REVISION PETITION No. 2934 of 2015

ORDER:

The defendants in O.S.No.78 of 2012 on the file of the Senior Civil Judge, Puttur, are the petitioners herein. The respondents herein/plaintiffs filed the said suit seeking partition of the suit schedule property and allotment of their share therein.

In the suit, the plaintiffs earlier filed I.A.No.733 of 2014 seeking permission to examine them after examination of the independent witnesses and the said application was dismissed as not pressed on 08.10.2014. After completion of the evidence of P.Ws.1 to 3, the plaintiffs filed I.A.No.1135 of 2014 for the same relief and also I.A.No.1136 of 2014 for restoration of I.A.No.733 of 2014 which was dismissed on 08.10.2014. The trial Court allowed I.A.No.1135 of 2014 and dismissed I.A.No.1136 of 2014 by separate orders dated 24.06.2015. Challenging the order in I.A.No.1135 of 2014, the present civil revision petition is filed by the defendants.

The trial Court considered Order 18 Rule 3-A of C.P.C., and by relying on a decision in ***K.V.Prasad Reddy Vs. Yarabolu Hariprasad Reddy*** reported in 2005(3) LS 299, granted leave to the plaintiffs to lead evidence on their behalf. As a consequence thereof, the other petition in I.A.No.1136 of 2014 was found to be unnecessary, and accordingly, it was dismissed.

Now, the learned counsel for the defendants submits that in view of the decision of a learned Single Judge of this Court in ***Akella Surya Prakasa Rao Vs. Akella Prabhakaram and others***^[1], it is not permissible for the Court to permit plaintiff to be examined as a witness after completion of other witnesses. A perusal of the said decision shows that the learned Single Judge did not lay down a different proposition of law. It is always open to the trial Court to grant leave to plaintiff to depose

in a case after examination of other witnesses on his behalf. Grant of leave by the trial Court is a discretionary order. More over, this is a suit for partition and no prejudice would be caused to the defendants by such course of action. In the circumstances, I do not see any ground to interfere with the order passed by the trial Court.

Accordingly, the Civil Revision Petition is dismissed. There shall be no order as to costs.

Consequently, miscellaneous petitions, if any, pending in the civil revision petition shall stand dismissed.

(A.RAMALINGESWARA RAO, J)

18th December, 2015

Note: Registry is directed to send
back the record in O.S.No.78
of 2012 to the lower Court.

(b/o)
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THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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