

HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

CRP.No.3614 of 2015

ORDER:

This Civil Revision Petition is filed under Article 227 of the Constitution of India challenging the order dt.10.07.2015 in I.A.No.53 of 2013 in O.S.No.491 of 2011 of the Principal Senior Civil Judge, Warangal.

2. The petitioner herein is the defendant in the above suit, which had been filed by the respondent, who is his daughter through his 2nd wife by name Rajamani, for partition of the plaint schedule properties and for separate possession of half share.

3. The petitioner filed written statement opposing the suit claim. He denied in the written statement that there were any ancestral joint family properties in respect of which the respondent would have a share. He also pleaded that there was a divorce by mutual consent between himself and the mother of the respondent in O.P.No.84 of 1993 recorded by the II Additional Sub Judge, Warangal where under, he had paid a sum of Rs.2,00,000/- to the mother of the respondent and had also deposited Rs.15,000/- in favour of the respondent for securing her future. Therefore he contended that the respondent is not entitled to any relief in the suit.

4. The respondent also filed I.A.No.53 of 2013 under

Order VII Rule 11(d) CPC seeking rejection of the plaint taking the same pleas. He contended that the suit is without any merits and it is filed vexatiously and with unclean hands by suppressing the facts.

5. Counter affidavit was filed by the respondent to the said application. She reiterated that she is entitled to claim partition and that the application filed by the petitioner had no merits and is liable to be dismissed.

6. By order dt.10.07.2015, the Court below dismissed the said application.

7. It held that the question whether the petitioner had any joint family property or self acquired property or even the suit schedule property, is a matter to be considered in the suit and not in this application. It also held that in the absence of oral and documentary evidence, it cannot be said that the respondent is not entitled to any relief in the suit.

8. Challenging the same, this Revision is filed.

9. Heard Sri M.Ajay Kumar, counsel for the petitioner.

10. Although counsel for the petitioner sought to contend that the order passed by the Court below is incorrect in law and that the plaint ought to have been rejected, I am of the considered opinion that none of the

grounds, on the basis of which a plaint can be rejected, under Order VII Rule 11 CPC, are attracted to the present case to reject the plaint, at the threshold. Whether the statement in the OP to which the respondent's mother and the petitioner are parties, is binding on the respondent and whether the petitioner had any ancestral or self acquired properties and whether the suit schedule property is liable for partition, are all questions to be decided after trial in the suit.

11. Therefore, I do not find any merit in this Civil Revision Petition and it is accordingly dismissed. There shall be no order as to costs.

12. Consequently, miscellaneous petitions pending, if any, in this appeal shall stand closed. No costs.

M.S.RAMACHANDRA RAO, J

04th September, 2015.
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