

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH**

* * * *

CIVIL REVISION PETITION No.5677 of 2012

Between:

Vemuri Ksheerasayanna

....Petitioner

and

Bhagavathula Vara Venkata Narayana Rao
and others.

....Respondents

JUDGMENT PRONOUNCED ON : 21.12.2015

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO :

1. Whether Reporters of Local newspapers : Yes
may be allowed to see the Judgments?
2. Whether the copies of judgment may be : No
Marked to Law Reporters/Journals?
3. Whether Their Ladyship/Lordship wish to : No
see the fair copy of the Judgment?

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

-

CIVIL REVISION PETITION No.5677 of 2012

-

ORDER:

The plaintiff filed O.S.No.2 of 2009 (originally O.S.No.2 of 1999 on the file of the learned Principal District Judge) on the file of the learned VI Additional District Judge (Fast Tract Court), Krishna, Machilipatnam. Even before commencement of the trial, he filed I.A.No.99 of 2009 seeking a direction not to permit the 10th defendant to adduce evidence on the Will dated 25.01.1973 executed by one V.Ranganayakamma in his favour as it was decided in a former suit between the same parties. The 10th defendant filed a counter affidavit stating that there was a finding with regard to the Will dated 25.01.1973 by the learned Senior Civil Judge, Avanigadda, in

O.S.No.9 of 1995, but an appeal was pending before this Court. Taking the same into consideration, the lower Court dismissed the application by order dated 17.08.2012, challenging which the present Civil Revision Petition is filed.

Now the learned Counsel appearing for the 10th defendant submits that the 10th defendant expired and his legal representatives are brought on record.

Learned Counsel for the petitioner submits that the appeal preferred against the decree in O.S.No.9 of 1995 was dismissed by this Court on 17.04.2013 and the finding recorded therein has become final.

Since the trial is not yet commenced, it is premature to decide what sort of evidence the parties are going to adduce. In those circumstances only the lower Court dismissed the application, as the appeal was pending before this Court. However, the lower Court observed that it is the right of the parties conferred by law that they are at liberty to adduce evidence required to prove their respective cases for getting proper reliefs from the competent Courts.

Hence, liberty is given to the plaintiff to take all available pleas in respect of the said Will, and the order of the Court, as on the date of passing the said order, cannot be found to be incorrect. Giving liberty to the respective parties to adduce their evidence in accordance with law, the present Civil Revision Petition is dismissed.

Learned Counsel for the petitioner submits that the suit is of the year 1999 and it is not being disposed of due to dilatory tactics adopted by the respondents. But, the learned Counsel for the respondents denies the same. Be that as it may, in view of the suit being of the year 1999 and it is a suit for partition, the lower Court shall endeavour to dispose of the suit, as expeditiously as possible, not later than 30.06.2016.

The miscellaneous petitions pending in this Civil Revision Petition, if any, shall stand closed. There shall be no order as to costs.

21.12.2015
vs

(A.RAMALINGESWARA RAO, J)