

**THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA
RAO**

C.R.P.No.4644 OF 2014

ORDER :

This Civil Revision Petition is filed challenging the order dt.03.05.2013 in E.P.No.1 of 2010 in O.S.No.115 of 2008 of the Junior Civil Judge, Narayanpet insofar as the said Court, while allowing the said EP and directing the respondents to deposit a sum of RS.50,832/- before the Court, imposed a condition that petitioner/D.Hr. can take the said amount only with the consent of the other legal heirs of one Yenkappa, who is the father-in-law of the petitioner.

2. Counsel for the petitioner contended that it was the petitioner who filed the suit against the respondents and obtained a decree on 18.03.2009; although the property originally belong to Yenkappa, petitioner's father-in-law, the other legal heirs having filed claim petition under Order XXI Rule 58 CPC in the said EP, withdrew the same; and that merely because the respondents 1 to 4 raised a contention that the property is co-owned by other legal heirs of Yenkappa, it is not open to the Court below to impose the said condition.

3. Counsel for the respondents submits that no doubt such a contention was raised before the executing court, but does not dispute that since the petitioner is a decree holder, she

alone is entitled to the amount of Rs.50,832/- which is said to have been now deposited by the respondents to the credit of the EP, and the other legal heirs i.e., wife and other two sons of Yenkappa, cannot said to be have any interest in the matter.

4. In this view of the matter, the order dt.03.05.2013 in E.P.No.1 of 2010 in OS.No.115 of 2008 of the Junior Civil Judge, Narayanpet is set aside in so far as the said order directed the petitioner to take the sum of Rs.50,832/- deposited by the respondents 1 to 4 only with the consent of other legal heirs of Yenkappa i.e., his wife and other two sons. It is made clear that the petitioner is entitled to withdraw the sum of Rs.50,832/- deposited by respondents 1 to 4 to the credit of the EP and that the consent of other legal heirs of Yenkappa is unnecessary for the said purpose.

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

6. Consequently, Miscellaneous Petitions pending if any, shall stand closed.

M.S. RAMACHANDRA RAO, J

24th August, 2015.
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