

HON'BLE SRI JUSTICE R.SUBHASH REDDY

CIVIL REVISION PETITION No.244 of 2015

ORDER :

This Civil Revision Petition, under Article 227 of the Constitution of India, is filed by the petitioner/plaintiff aggrieved by the order and decree dated 14.11.2014 in I.A.No.471 of 2014 in O.S.No.99 of 2010 passed by the XIII Additional District and Sessions Judge (FTC), Vijayawada, Krishna District, dismissing the Memo filed by him under Order 12, Rule 8 of C.P.C., seeking to direct respondents/defendant Nos.2 to 6 to produce the following documents:

- (i) The alleged partition list dated 25.4.1969 said to have been executed among the defendants;
- (ii) The alleged Will dated 25.1.1981 said to have been executed by the deceased Manchineni Ramaiah;
- (iii) The alleged Will dated 24.2.1986 said to have been executed by the deceased Manchineni Ramaiah; and
- (iv) The alleged Will dated 24.10.1998 said to have been executed by the deceased Manchineni Gouramma;

As the originals of the said documents are filed by them in the suit in O.S.No.135 of 1997 and those documents were marked on their behalf, therefore, the said documents are in their custody and possession.

2. Heard Sri V. Subrahmanyam, learned counsel for the petitioner/plaintiff as well as Sri V. Raghu, learned counsel for the respondents/defendants and perused the impugned order.

3. A perusal of the impugned order shows that the petitioner along with 2 others filed suit being O.S.No.99 of 2010 on the file of the XIII Additional District and Sessions Judge (FTC), Vijayawada, Krishna District, for partition of the plaint schedule properties. In the said suit, the plaintiffs filed a Memo in I.A.471 of 2014 seeking to direct the respondents/defendant Nos.2 to 6 to produce certain documents as the said documents are in their custody. The respondents/defendants filed counter affidavit stating that the said Memo is not maintainable. It is their case that the originals of the said documents were earlier filed in the suit being O.S.No.135 of 1997 on the file of the I Additional Senior Civil Judge, Vijayawada, and hence they are not in their custody. It is also stated that as against the dismissal of appeal in A.S.No.236 of 2006 on the file of VII Additional District Judge, Vijayawada, the father of the petitioner/plaintiff preferred second appeal being S.A.No.1439 of 2012 before this Court and the same was also dismissed on 24.1.2004, confirming the judgment and decree of the lower appellate Court.

4. In view of the above, as the originals of the documents sought for by the petitioner/plaintiff are not in the custody of the respondents/defendant Nos.2 to 6 and they are in the custody of the trial Court, having been marked as exhibits in suit O.S.No.135 of 1997, no direction can be given to defendant Nos.2 to 6 to produce the said documents and the Court below has rightly dismissed the Memo filed by the petitioner/plaintiff. In view of the reasons assigned by the Court below, no case is made out by the petitioner/plaintiff warranting interference by this Court with the impugned order.

5. For the aforesaid reasons, this civil revision petition is devoid of merits and is accordingly dismissed, at the admission stage. As a sequel, miscellaneous petitions pending, if any, shall stand closed. No order as to costs.

JUSTICE R. SUBHASH

REDDY
13.03.2015.
Msr

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