

THE HON'BLE SRI JUSTICE VILAS V. AFZULPURKAR

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C.R.P. NO. 1294 of 2014

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Date of Judgment: 15.4.2015

Between:

Samanthula Venkat Narayan Reddy and another

...Petitioners

And

Samanthula Dasharatha Rami Reddy

..Respondent

THE HON'BLE SRI JUSTICE VILAS V. AFZULPURKAR

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C.R.P. NO. 1294 of 2014

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ORDER:

The petitioners herein are the defendants in O.S.No. 60 of 2006 on the file of Prl. Junior Civil Judge, Ongole. The said suit filed for partition was admittedly decreed and a preliminary decree was passed directing partition of the suit schedule properties into three equal shares among the parties and the said preliminary decree dated 20.8.2010 has become final by dismissal of appeal filed against it, vide AS No. 171 of 2010 on the file of I-Addl. District Judge, Ongole, dated 25.4.2011 and further dismissal of second appeal, vide SA No. 905 of 2011, dated 27.10.2011. Thus the said preliminary decree has attained finality and now final decree

proceedings are stated to be pending vide I.A.No. 722 of 2012. The petitioners/defendants filed I.A.No. 458 of 2013 seeking to reopen the matter for the purpose of adducing oral and documentary evidence. The said application was rejected by the Court below under the impugned order. Aggrieved thereby the present revision petition is preferred.

I have heard learned counsel for the petitioners/defendants and learned counsel for the respondent/plaintiff.

It is not in controversy that the preliminary decree has attained finality and as such the contest among the parties on merits is not open for any other adjudication. The request of the petitioners to lead oral and documentary evidence was rightly refused by the Court below. However, the petitioners seek to file additional documents which are in the nature of registered sale deeds executed between the parties inter se relating to the suit schedule property. The said documents, therefore, are sought to be filed by the petitioners at this stage. Since the suit is pending at the stage of final decree proceedings, for the purpose of only adjustment of equities the Court below can receive the said documents sought to be produced by the petitioners in the nature of registered sale deeds between the parties and the said documents shall be looked into by the Court below at the time of passing of final decree for limited purpose of adjustment of equities among the parties. Since the Court below while passing final decree is bound to adjust the equities among the parties, there is no prejudice to the respondent by permitting the documents as above.

The revision petition is allowed in part to the extent indicated above. Miscellaneous applications, if any, shall stand closed. No order as to costs.

VILAS V. AFZULPURKAR, J

Dt. 15.4.2015

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