

THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

CIVIL REVISION PETITION No.4360 of 2015

ORDER:

This revision is directed against the order passed in I.A.No.380 of 2013 in O.S.No.73 of 2009.

The two plaintiffs in the suit are the petitioners herein. The suit is instituted seeking partition of certain immovable properties. Defendant Nos.1 and 2 in the suit are stated to be the brothers of the two plaintiffs. The other defendants are the purchasers of immovable property, which is forming part of the suit schedule. Defendant Nos.1 and 2 remained ex parte in the main suit itself. It is respondent Nos.3 to 6 herein, who are the other defendants, being purchasers who are contesting the suit. During the course of cross-examination of PW.1, the 2nd plaintiff, it was extracted that the mother of the two plaintiffs and defendant Nos.1 and 2 was alive. But, however, she has not been impleaded to the suit for partition and it is also pointed out that if truly the mother is also entitled to a share, the two plaintiffs could not be entitled to 1/4th share, but, something less than that namely 1/20th share.

However, most significantly, the plea taken by the contesting defendants in the suit was that the father of the two plaintiffs and defendant Nos.1 and 2 after partitioning the property amongst themselves sold the suit property together with one of the two brothers of two plaintiffs and that multistoried buildings are constructed by the purchasers and hence, the suit is a speculative one. It is in these circumstances, the interlocutory application seeking impleadment of the mother is dismissed.

For deciding the main question as to whether the father of the plaintiffs has already partitioned the property jointly owned and as to whether the father of the two plaintiffs along with one of the brothers of the plaintiffs have sold the property, the presence of the mother of the

plaintiffs may not be necessary and at any rate, for non-joinder of one of the coparceners, the partition suit need not necessarily be dismissed. Hence, I do not see any justifiable reason to admit this civil revision petition, which would only add up to further delay in the suit getting decided as it is an old suit.

Hence, I do not find any reason to entertain this revision and accordingly, it is dismissed.

Consequently, the miscellaneous applications, if any shall also stand dismissed. No costs.

JUSTICE NOOTY RAMAMOHANA RAO

18.12.2015
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