

THE HON'BLE SRI JUSTICE K.C.BHANU

CIVIL REVISION PETITION No.323 OF 2015

ORDER:

The Civil Revision Petition is directed against the order, dated 29.10.2014, in I.A.No.647 of 2014 in O.S.No.62 of 2011 on the file of the Senior Civil Judge, Gurazala, whereunder and whereby, petition filed by the petitioner/plaintiff under Order XVIII Rule 17 read with Section 151 of the Code of Civil Procedure, 1908 to recall P.W.1 for further examination in chief and to mark partition list, dated 14.01.1985, as an exhibit, was dismissed.

2. Petitioner herein/plaintiff filed O.S.No.62 of 2011 against the respondent herein/defendant for partition of the suit schedule properties into four equal shares and to allot three such shares to him. He was examined as P.W.1 in the suit and Exs.A-1 to A-3 were got marked. On the ground that the partition list, dated 14.01.1985, could not be marked inadvertently and it is essential to mark the said document, he filed I.A.No.647 of 2014 and the same was dismissed on the ground that the document is not at all admissible under law, as the defendant has not signed in the said document. Challenging the same, he filed the present Revision Petition.

3. Learned counsel for the petitioner/plaintiff contended that rejecting the said document at the threshold is not warranted; that as per the said partition list, all the family members including the defendant partitioned their properties and if the said document is received and marked as an exhibit, the defendant would get only 1/4th share in the suit schedule property; that a reference was also made in the plaint about the said partition list and hence, he prays to set aside the impugned order.

4. There cannot be any dispute that at the threshold, a party cannot be denied in bringing some document. A pleading has been taken in the plaint that a partition list was executed among the brothers on 14.1.1985. Though it was filed into the Court, it was not marked by inadvertence when P.W.1 was examined. Therefore, it has to be marked. At the same time, there cannot be any dispute that the petitioner must, *prima facie*, show that the document has some relevancy with regard to the suit. The suit was filed for partition into four equal shares and to allot three such shares to the plaintiff. Since the defendant is not a signatory to the said partition list, it cannot be, *prima facie*, admissible against the defendant. Therefore, for this reason, the trial Court rightly dismissed the aforementioned Interlocutory Application and that order needs no interference by this Court, and this Revision Petition is liable to be dismissed.

5. Accordingly, the Civil Revision Petition is dismissed. There shall be no order as to costs. Miscellaneous petitions pending, if any, in this Civil Revision Petition shall stand closed.

JUSTICE K.C.BHANU

Date: 27.2.2015
AMD

THE HON'BLE SRI JUSTICE K.C.BHANU

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DATE:27.02.2015

AMD