

HONOURABLE SRI JUSTICE P. NAVEEN RAO

CIVIL REVISION PETITION No. 1465 of 2015

ORAL ORDER:

This revision is directed against the orders passed in I.A.No. 1736 of 2014 in O S No. 150 of 2012 dated 27.1.2015 on the file of the Principal Junior Civil Judge, Anantapuram.

Revision petitioner is third defendant in suit. He filed I.A No. 1736 of 2014 under Order 7 Rule 11 of CPC seeking rejection of plaint on the ground that it is barred by law. On elaborate consideration of the rival contentions, the trial Court dismissed I A No. 1736 of 2014 by order dated 27.1.2015 assailed in this revision.

Learned counsel for petitioner made elaborate submissions on the decision arrived at by the trial Court in I A. He contends that the relief claimed in the plaint is barred by Mohammedan law and in view of the agreement already arrived at by the first defendant and his brothers under family settlement agreement dated 12.3.1999, and plaintiff being none other than son of the first defendant, is not entitled to claim relief of partition.

The trial Court considered the submissions vis a vis the provision in Order 7 Rule 11 and the precedents on the subject and found that the grounds urged in interlocutory application do not attract the provision in Order 7 Rule 11 (d) of CPC, therefore the claim of the petitioner is not valid. The trial Court further held that no such law is brought to the notice of the Court evidencing disqualification of the plaintiff on claiming the relief of partition in the suit schedule property.

Having heard the learned counsel for petitioner and on perusal of the material available on record, I do not see any error much less patent error in the decision arrived at by the trial Court warranting interference by this Court. The revision fails and accordingly dismissed. However, it is needless to observe that during the trial, the petitioner herein is entitled to lead evidence to substantiate his contentions as urged in the interlocutory application and in this revision and dismissal of this revision do not come in the way of taking such defence. No costs. Having regard to the same, miscellaneous petitions, if any pending, are

closed.

P NAVEEN RAO,J

DATE:13.7.2015
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