

THE HON'BLE SRI JUSTICE G.CHANDRAIAH

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C.R.P.NOS.1728, 2064 AND 2067 OF 2013 AND 3075 OF 2015

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COMMON ORDER

Heard the respective counsel.

2. As the impugned orders arise out of the same suit, they are being disposed of by this common order.

3. The plaintiff – Ms.Adusumilli Chinnamma filed suit in O.S.No.95/1995 on the file of V Additional Senior Civil Judge (FTC) at Vijayawada for partition against twenty defendants and as per the material available on record, the suit is reserved for judgment. At that stage, the defendant No.3 filed I.A.No.1/2015 in O.S.No.95/1995 under Order 18 Rule 17 of CPC to recall P.Ws.1 and 2 and D.Ws.1 to 8 for the purpose of cross-examination. By order dated 22.6.2015, the trial court allowed the petition and aggrieved by the same, the defendant No.7 filed the revision in C.R.P.No.3075/2015.

4. The 19th defendant filed I.A.No.273/2012 in O.S.No.95/1995 to re-open the matter which was reserved for judgment for the purpose of cross-examination of P.W.1 The trial court by order and decree dated 31.1.2013 dismissed the application on the ground that though sufficient opportunity was given and as the case is identified for disposal, the petitioner therein failed to avail the same. Aggrieved by the order of dismissal, revision in C.R.P.No.1728/2013 has been filed. The 19th defendant also filed I.A.No.274 and 275 of 2012 under Section 151 of CPC to reopen and to recall P.W.1 for the purpose of cross-examination. In view of dismissal of I.A.No.273/2012, the trial court dismissed the present I.As. by separate orders dated 31.1.2013. Challenging the same, the 19th defendant filed revisions in C.R.P.Nos.2064 and

2067 of 2013.

5. The learned counsel appearing for the petitioner submitted that having regard to the nature of the suit, the petitions filed by the 19th defendant may be considered and the parties will co-operate for early disposal of the suit. The counsel for the respondents opposed the petition and sought to dismiss the revisions in C.R.P.Nos.1728, 2064 and 2067 of 2013 and to allow the other revision in C.R.P.No.3075 of 2015.

6. The suit is for partition and the claims of the respective parties are required to be adjudicated after given opportunity. No doubt, in the present case, the suit is dragged on for twenty years and it is ripe for disposal. The trial court by order dated 22.6.2015 in I.A.No.1/2015 in O.S.No.95/1995 filed by defendant No.3, in my considered view, has rightly found that if P.Ws.1 and 2 and D.Ws.1 to 8 were not cross-examined, petitioner/D-3 loses the opportunity to test the veracity of the witnesses and the matter requires to be disposed of on merits. Having regard to the nature of the suit and in order to give a final opportunity and to dispose of the suit on merits, the impugned orders in I.A.Nos.273, 274 and 275 of 2012 in O.S.No.95/1995 are set aside and the said I.As. are allowed and revisions in C.R.P.Nos.1728, 2064 and 2067 of 2013 are thereby allowed and consequently C.R.P.No.3075/2015 is dismissed. No costs.

7. Miscellaneous petitions pending if any, shall stand closed.

8. As the suit is of the year 1995, it is made clear that the court shall below shall dispose of the suit on day to day basis, positively within a period of three months from the date of receipt of a copy of this order and the parties shall co-operate with the trial court of the suit.

AVS -----

15—09—2015

