

HON'BLE SRI JUSTICE SANJAY KUMAR

CIVIL REVISION PETITION No.2857 of 2011

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Date: April 30, 2015

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Between:

Ankam Srinivas ... Petitioner

and

1. Ankam Mallesham & 2 others. ... Respondents

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HON'BLE SRI JUSTICE SANJAY KUMAR

CIVIL REVISION PETITION No.2857 of 2011

ORDER:

The petitioner herein, being the appellant in A.S.No.91 of 2007 on the file of the learned IV Additional District and Sessions Judge (FTC), Warangal, filed I.A.No.299 of 2011 therein under Order XXIII Rule 3 C.P.C to record a compromise said to have reached between him and the 2nd respondent in the appeal, viz., A. Rajaiah. By order dated 20.06.2011, the appellate Court dismissed the said I.A.

Aggrieved thereby, he approached this Court by way of the present C.R.P filed under Section 115 C.P.C.

2. By order dated 26.07.2011, this Court granted interim stay of further proceedings in the appeal pending disposal of this C.R.P. for a period of six weeks. This interim order was extended until further orders on 19.09.2011. Appearance having been entered by the respondents through learned counsel, the matter is amenable to disposal at the stage of admission.

3. Perusal of the order under revision reflects that the subject appeal arose out of the partition suit in O.S.No.264 of 2003 on the file of the learned Principal District Munsiff, Warangal. The 1st respondent in the appeal was the plaintiff therein, while the petitioner/appellant was the 3rd defendant and the 2nd respondent in the appeal, A. Rajaiah, was the 1st defendant. The suit was decreed by the trial Court under judgment dated 22.06.2007 holding that the plaintiff, the 1st defendant and the 3rd defendant were entitled to $\frac{1}{4}$, $\frac{1}{4}$ and $\frac{1}{2}$ shares in the suit property.

4. While so, by way of the subject I.A. the appellant/3rd defendant claimed to have entered into a compromise with the 1st defendant in the suit whereby the 1st defendant relinquished his rights in the suit schedule property in his favour upon receipt of valuable consideration.

5. Though the appellate Court dismissed the I.A. on the ground that the compromise effected between the 1st and 3rd

defendants in the suit invariably affected the rights of the plaintiff therein, a further ground is raised in this revision petition by the 1st defendant/2nd respondent to the effect that he did not agree to the compromise knowingly and that his signatures were taken upon misrepresentation and suppression of true facts. No rebuttal by way of a reply was filed by the petitioner/appellant countering these averments of made by A. Rajaiah in his affidavit dated 20.07.2013.

6. Considering the above facts, this Court is of the opinion that no purpose is served by keeping this revision pending effectively stalling the proceedings in the appeal pending before the learned IV Additional District and Sessions Judge (FTC), Warangal. As the very factum of the alleged compromise is under dispute, this Court finds no reason to interfere with the order under revision. It is for the parties who reach a compromise during the pendency of the litigation to get the same recorded in accordance with law. The petitioner/appellant would always be at liberty to take such steps in the event the occasion arises.

7. Reserving liberty to him to take recourse to such procedure if warranted, this C.R.P. is dismissed. Interim stay dated 26.07.2011 shall stand vacated. Pending miscellaneous petitions, if any, shall also stand dismissed. No order as to costs.

SANJAY KUMAR, J.

Date: April 30, 2015.

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HON'BLE SRI JUSTICE SANJAY KUMAR

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