

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

—
CIVIL REVISION PETITION No.2969 of 2015

ORDER:

Heard the learned counsel for petitioners and the learned counsel for respondent.

2. The petitioners are defendants in O.S.No.164 of 2009 on the file of the Court of the Junior Civil Judge at Kollapur, Mahabubnagar District (for short, trial Court). According to the counsel for the petitioners, the suit was filed for partition and separate possession of the joint family property. After framing the issues, I.A.No.327 of 2011 was filed by the petitioners requesting the trial Court to send the petitioner No.1, plaintiff and his mother Nagendramma alias Anjamma to the Forensic Science Laboratory, Hyderabad for Molecular test. The evidence had not yet commenced and the trial Court dismissed the application, by order dated 05.06.2015 holding that if the petitioner is having any dispute with respect to the relationship between him and the mother of the respondent, he has to seek appropriate relief before the appropriate forum, but not in a case relating to suit for partition. It was also stated that no issue was framed in that regard.

3. In the facts and circumstances of the case, this Court feels that the petition filed by the petitioners even before commencement of the trial is premature. In the case of denial of any relationship, it is for the plaintiff to establish his case, but the respondents cannot seek the relief as sought for by them at this stage. However, without going into merits of the case, this Court upholds the order of the trial Court without prejudice to the rights of the petitioners.

4. The Civil Revision Petition is, accordingly, dismissed at the admission stage. No order as to costs. Miscellaneous Petitions, if any, pending in this Civil Revision Petition shall stand closed.

A.RAMALINGESWARA RAO, J

Date: 04.09.2015
TJMR