

THE HON' BLE SRI JUSTICE M. SEETHARAMA MURTI

Civil Revision Petition No.5556 of 2015

ORDER:

This Civil Revision Petition is filed by the petitioner/ 3rd party under Article 227 of the Constitution of India having been aggrieved of the orders dated 09.11.2015 of the learned Senior Civil Judge, Adoni, passed in I.A.No.715 of 2011 in I.A.No.206 of 2006 in O.S.No.38 of 1965 filed under Order I Rule 10 of the Code of Civil Procedure, 1908, requesting to implead him as a party respondent in I.A.No.206 of 2016 *inter alia* contending that his father is a party to the preliminary decree passed in the suit for partition and that, in a family partition, he acquired the share of the father by virtue of the partition deed dated 21.02.2011 executed amongst his father and brothers.

2. The trial Court by the order impugned in this revision dismissed the said petition of the petitioner on the ground that the father is very much alive as on the said date of the partition, 21.02.2011, and that therefore, the question of the petitioner claiming a share of his father under the said partition deed does not arise for consideration during the life time of his father.

3. Aggrieved thereby, the petitioner preferred this revision.

4. I have heard the submissions of *Sri K.Sta Ram*, learned counsel appearing for the petitioner/ 3rd party, *Sri K.Viswanatha Reddy*, learned counsel appearing for respondent nos.1 to 7 and *Sri B.Vijaya Bhaskar*, learned counsel for the respondents 15 to 21. I have perused the pleadings and other part of the material record.

5. Learned counsel for the petitioner while reiterating the contentions of the petitioner would submit that subsequent to the filing of this revision, the father of the petitioner, who is the 1st defendant in the suit, died, on 31.12.2015, and that in view of the said subsequent event, the petitioner is

anyhow entitled to be added as a party respondent being one of the legal representatives of his father along with his brothers and that therefore, the revision petition may be disposed of with a direction to the trial Court to consider the application for impleadment of the petitioner and other legal heirs of the deceased father of the petitioner, which is already filed and pending before the trial Court.

6. Learned counsel for the respondents while endorsing the said view would only submit that the revision petition is liable for dismissal.

7. Having regard to the submissions and the subsequent event and the further fact that the LR application filed for impleadment of the petitioner and other legal heirs of his deceased father is already pending before the trial Court, this Court is of the considered view that the revision petition can be disposed of with a direction to the trial Court to dispose of on merits the LR application pending before it, as expeditiously as possible, in any event, not later than one month from the date of receipt of a copy of this order, as the suit is a sufficiently old one.

8. The Civil Revision Petition is accordingly disposed of with the above directions.

Pending miscellaneous petitions, if any, shall stand closed. No costs.

M. SEETHARAMA MURTI, J

19th December 2016

Note:- issue CC by 23.12.2016

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