

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

CIVIL REVISION PETITION NO.5864 OF 2015

DATED:07-01-2016

Between:

Neradla Sambasiva Rao
and others ... Petitioners

And

Neradla Srinu
and another ... Respondents

... Respondents

COUNSEL FOR THE PETITIONERS: Mr. D.A. Premchand

COUNSEL FOR THE RESPONDENTS: -

THE COURT MADE THE FOLLOWING:

ORDER:

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Defendant No.1 in O.S. No.165 of 2009 filed this civil revision petition against order dt.3.9.2015 in I.A. No.1020 of 2015 in I.A. No.736 of 2012 in O.S. No.165 of 2009, on the file of the Principal Junior Civil Judge, Mangalagiri. Respondent No.1 filed the above mentioned suit for partition of the plaint schedule property. A preliminary decree dt.15.4.2013 was passed in the said suit. Thereafter, respondent No.1 has filed I.A. No.736 of 2012 for passing of final decree in terms of the preliminary decree. An Advocate Commissioner was appointed by the lower Court for division and allotment of plot numbers among the parties in terms of the preliminary decree. The Advocate Commissioner has filed his report wherein he has stated that the schedule property is not divisible one. The lower Court has therefore put the property for auction among the parties. As the parties have not cooperated in holding of auction, respondent No.1 has filed I.A. No.1020 of 2015 for sale of the property in public auction. The petitioner herein has resisted the claim of respondent No.1 by filing a counter affidavit stating that the allegations in the petition are all false. Rejecting the said objections, the lower Court has allowed the I.A. filed by respondent No.1.

As rightly observed by the lower Court, the petitioner has failed to question the preliminary decree. As the property is liable for partition and as the same is not divisible, as per the report of the Advocate Commissioner, the lower Court has no option other than directing sale of the property in public auction. Therefore, the it has rightly allowed the I.A. filed by respondent No.1.

Hence, I do not find any reason to interfere with the order of the lower Court. The civil revision petition is accordingly dismissed.

As a sequel to dismissal of the civil revision petition, C.R.P.M.P. No.7687 of 2015 shall stand disposed of as infructuous.

C.V. NAGARJUNA REDDY, J

07-01-2016

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