

HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

C.R.P.No.3574 OF 2016

ORDER:

This revision petition is filed against the order dated 27.04.2016 passed by the Chief Judge, City Civil Court, Hyderabad in OSSR No.16274 of 2015.

The Court below returned the plaint with an objection that how the suit for declaration is maintainable.

The trial Court took an objection regarding filing of original documents relied on by the plaintiff in the suit and maintainability of the suit, on several occasions and represented the same by the counsel for plaintiff and undertook to file the documents at the time of trial. The suit was filed to declare the plaintiff as legal heir of the deceased G.Lakshmaiah and list of documents were annexed to the plaint, which are basis for the claim. The 1st and 2nd documents are death certificates and the other documents are only copies of documents i.e. sale deed, partition deed etc. The undertaking of the petitioner is not in compliance with the Order 17 Rule 14 C.P.C. Therefore, return of the plaint on that ground cannot be faulted.

The other ground is maintainability of the suit while directing to present the plaint before appropriate Court.

It is the contention of the petitioner that the order passed by the trial Court is under Order 7 Rule 10 C.P.C., according to Order 7 Rule 10 C.P.C., the plaint shall at any

stage of the suit be returned to be presented to the Court in which the suit should have been instituted and Sub-rule (2) explain the procedure for return of the plaint. The trial Court returned the plaint by exercising power under Order 7 Rule 10 C.P.C., but the same is questioned on the ground that the Court has jurisdiction. The trial Court did not assign any reason for such return.

In these circumstances, it is a fit case to direct the Presiding Officer of the trial Court to hear on the submission of counsel on objection regarding the maintainability of the suit and jurisdiction of the trial Court and pass reasoned order according to law.

With the above direction, the revision petition is disposed of. There shall be no order as to costs.

As a sequel, miscellaneous petitions, if any, pending in the revision shall stand closed.

M.SATYANARAYANA MURTHY,J

08.09.2016

Note: Registry is directed to
send the entire record to the
trial Court within one week
from today.
b/o
kvrn