

**THE HON'BLE SRI JUSTICE M.S. RAMACHANDRA
RAO**

CIVIL REVISION PETITION No.1714 of 2016

ORDER:

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This Revision is filed challenging the order dt.24-02-2016 in I.A.No.723 of 2015 in O.S.No.1 of 2001 of the Senior Civil Judge at Mahabubabad.

2. The petitioners herein are defendants in the said suit. The said suit had been filed by respondent against petitioners in the year 2001 for partition of the plaint schedule properties and for allotment of a 1/5th share in plaint 'A' schedule property.

3. Written statement was filed by 1st petitioner herein in the year 2001.

4. After trial, the suit was decreed on 31-07-2006.

5. The petitioners questioned the same in A.S.No.6 of 2008 before the VI Additional District Judge, (III-FTC), Warangal at Mahabubabad.

6. The said appeal was allowed on 22-09-2014 and the matter was remitted back to the trial Court to mark the documents, which were received by the appellate Court and then dispose of the matter afresh.

7. After remand, the petitioners moved I.A.No.723 of 2015 under Order VII Rule 14(3) C.P.C. to receive three more documents. No reason is assigned as to why these documents have not been submitted either when the matter was pending in the trial Court in the earlier round of litigation or when appeal was pending in the lower appellate Court.

8. Counter affidavit was filed by respondent opposing this application, and contending that this application is filed only to delay the disposal of the suit.

9. By order dt.24-02-2016, the trial Court dismissed the said application. It observed that the 1st petitioner is aware of the joint family properties, which were ordered to be partitioned, but he was filing documents one after the other and even after the appellate Court showed some indulgence to him, he is not cooperating with the disposal of the case and is filing fresh documents again. It was also held that 1st petitioner had no share in item Nos.2, 3 and 5 and therefore it was not necessary to receive any documents in regard to these items. It also observed that no valid reason had been furnished for filing the documents at a belated stage.

10. Although learned counsel for petitioners sought to contend that grave prejudice would be caused to petitioners if the documents now sought to be filed by petitioners with the said I.A.No.723 of 2015 are not received, it is not disputed that no reason is assigned in the affidavit filed in support of I.A.No.723 of 2015 why these documents could not be obtained and filed earlier when the suit is pending before the trial Court or when appeal against the judgment of the trial Court is pending before the lower appellate Court. Since the suit is of the year 2001 and this application I.A.No.723 of 2015 was moved long after the written statement was filed, that too 14 years and after the matter was remitted to the trial Court by the appellate Court, the trial Court, in my considered opinion, was justified in rejecting it.

11. Therefore I do not find any error of jurisdiction in the order passed by the Court below warranting interference by this Court under Article 227 of the Constitution of India.

12. Therefore, the Civil Revision Petition is dismissed at the stage of admission. No costs.

13. As a sequel, miscellaneous petitions pending if any, in this Civil Revision Petition shall stand closed.

JUSTICE M.S. RAMACHANDRA RAO

Date: 01-04-2016
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