

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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CIVIL REVISION PETITION No.3996 of 2015

ORDER:

Heard the learned counsel for petitioner and none appeared for respondent.

2. The petitioner herein is defendant in O.S.No.290 of 2009 on the file of the Court of Principal Senior Civil Judge, Gudivada (for short, trial Court). The respondent herein filed the said suit seeking partition of the suit schedule property into two equal shares and to allot one such share to him. In the said suit, the respondent herein filed I.A.No.1103 of 2013 to add one Smt.G.Venkataravanamma as second defendant in the suit stating that on the advice of his advocate, he filed the suit against the defendant without showing his mother Smt.Boddu Suryavathi and sister Smt.G.Venkataravanamma as parties to the suit. But, at the stage of arguments, his advocate died and he engaged another advocate. The new advocate advised him to add his mother and sister as parties to the suit, but his mother expired on 25.06.2013 after executing a registered Will on 23.11.2011 bequeathing her share of property in his favour. His sister also executed a document on 23.11.2011 relinquishing her 1/3rd share in his favour and in favour of his mother. In those circumstances, he filed the said application. The application was resisted by the petitioner herein stating that in the written statement he stated that the suit is bad for mis-joinder of parties, as other family members of the plaintiff's family were not impleaded, the petition filed at the stage of arguments is belated and should not be entertained. The trial Court allowed the application, by order dated 05.08.2015, on the ground that the proposed party is a co-parcener and entitled to a share in the plaint schedule property. Challenging the said order, the present Civil Revision Petition is filed.

3. Admittedly, the proposed party is the sister of the plaintiff

(respondent herein). The defendant (petitioner herein) is not the natural brother of the plaintiff, but he is a cousin. The suit is filed for partition. The plaintiff is claiming relinquishment alleged to have been made by Smt.G.Venkataravanamma, the proposed party. It is not known whether the said document was exhibited during the course of trial or not. The mother of the plaintiff expired after executing a Will in favour of the plaintiff.

4. In the circumstances, the order of the trial Court dated 05.08.2015 is correct and it does not warrant any interference. However, the proposed party may not be allowed to file written statement at this stage, except submitting arguments in the suit.

5. Subject to the above observations, the Civil Revision Petition is dismissed. No order as to costs. Miscellaneous Petitions, if any pending, shall stand closed.

A.RAMALINGESWARA RAO, J

Date: 05.01.2016
TJMR