

**THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI**

**CIVIL REVISION PETITION No.3855 OF 2013**

**ORDER:**

Having been aggrieved of the non-registration and return of the application in I.A. (S.R.) No.205 of 2012 in O.S.No.695 of 1998 on the file of the learned V Additional Senior Civil Judge, Ranga Reddy District filed under Section 114 read with Section 151 Code of Civil procedure, the plaintiffs/petitioners had filed this revision petition under Section 115 of the Code of Civil Procedure, 1908.

**2.** I have heard the submissions of the learned counsel for revision petitioners/plaintiffs. I have perused the material record.

**3.** The facts necessary for consideration are, in brief, as follows:

The plaintiffs filed O.S.No.695 of 1998 for partition. The suit was under stay for several years in view of the orders granted by this Court in a connected matter. On the eventual vacation of the stay orders, the plaintiffs had sought amendment of the plaint in regard to the extent of the plaint schedule property from Ac.5.00 to Ac.19.00. On allowing the said application, the trial Court had found that it lacked pecuniary jurisdiction to any longer entertain the suit, in view of the increase in the value of the suit schedule property; therefore, it directed the plaint to be

returned for presentation to a proper Court. At that stage, the plaintiffs had filed the present I.A. (S.R.) No.205 of 2012 ('the I.A. (S.R.)', for brevity) *inter alia* stating that an extent of Ac.14.00 out of total Ac.19.00 was acquired by the defence authorities long time back and that, therefore, the property available for partition is only Ac.5.00 and not Ac.19.00 as mistakenly stated in the petition seeking amendment, which was allowed by the Court below. In the said factual background, the plaintiff had filed the above said I.A. (S.R.) with a request to restore the suit. However, the Court below did not entertain the said application on the ground of maintainability and had returned the said I.A.(S.R.) with a direction to the plaintiffs to explain as to how the application is maintainable. The plaintiffs having corrected the prayer in their said I.A.(S.R.) and having complied with the objection that was taken by the office of the Court below had re-presented the said I.A. (S.R.) seeking the review of the orders of the Court below whereby the plaint was directed to be returned as a sequel to the order permitting to amend the plaint. Even then the said I.A.(S.R.) was not entertained and was returned. Being aggrieved of such return of their said I.A. (S.R.), the plaintiffs had filed this revision.

**4.** Thus, the only grievance of the plaintiffs is that their application in I.A.(S.R.) No.205 of 2012 is not being entertained by the trial Court. When the office of the Court below has taken an objection as to the maintainability of

the said I.A.(S.R.) on the point of pecuniary jurisdiction and when the application was re-presented by complying with the objection taken, the Court below ought to have heard the learned counsel for the plaintiffs on the maintainability of the I.A.(S.R.) and ought to have passed an order directing the office to number the I.A.(S.R.); or in the alternative it ought to have passed a speaking order rejecting the I.A.(S.R.). Instead of doing so, the trial Court had refused to hear the Counsel on the aspect of the maintainability of the I.A.(S.R.), even after the re-submission of the same after complying with the objection taken by its office.

**5.** Therefore, in the well considered view of this Court, this revision can be disposed of giving appropriate direction to the Court below; as such a course would meet the ends of justice.

**6.** In the result, this revision is disposed of with a direction to the Court below to receive the application in I.A.(S.R.)No.205 of 2012 on its re-presentation by the plaintiffs and hear the learned counsel for both the parties on the aspect of the maintainability of the said application and pass appropriate speaking orders either directing the officer to register the I.A.(S.R.)No.205 of 2012 or rejecting the same, in case the court below comes to a conclusion that the said application is not maintainable. Accordingly, the plaintiffs are directed to represent I.A.(S.R.)No.205 of 2012 within fifteen (15) days from the date of receipt of a

copy of this order.

Miscellaneous Petitions pending, if any, shall stand closed. No costs.

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**M.SEETHARAMA MURTI, J**

6<sup>th</sup> April 2016.

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