

THE HON'BLE SRI JUSTICE A.V. SESA SAI

CIVIL REVISION PETITION Nos.676 OF 2016,
3357 OF 2016 AND 3392 OF 2016

COMMON ORDER:

Since these three Revision petitions are interrelated and arising out of one Suit, this Court deems it appropriate to dispose of these revisions by way of this common order.

2. These are the revisions filed by the plaintiff in O.S.No.66 of 2010 on the file of the Court of the III Additional District Judge, Ananthapuramu, for partition of plaintiff schedule properties. The deceased 1st defendant is the father, 2nd defendant is the mother and 3rd defendant is the son of the plaintiff. CRP.No.676 of 2016 assails the order passed by the Court below in I.A.No.691 of 2015, CRP.No.3357 of 2016 assails the order passed in I.A.No.693 of 2015 and CRP.No.3392 of 2016 assails the order passed in I.A.No.692 of 2015.

3. Petitioner herein filed I.A.Nos.691/2015, 692/2015 & 693/2015 under the provisions of Order 7 Rule 14(3) and Section 151 and Order 18 Rule 17 of CPC respectively. The said applications were contested by the defendants by way of filing counter. The learned III Additional District Judge, by way of a common order dated 04.08.2015, dismissed the said applications.

4. Heard Sri K.Maheswara Rao, learned counsel for the petitioner and Sri M.V.Subba Reddy, learned counsel for the respondents/defendants, apart from perusing the material available before the Court.

5. It is contended by the learned counsel for the petitioner that the order passed by the Court below is erroneous, contrary to law and opposed to the very spirit and object of the provisions of the C.P.C. It is the further submission of the learned counsel that had the contents of the affidavits filed in support of the applications been considered from proper perspective, the impugned order would not have emanated. It is also the submission of the learned counsel that in the event of allowing these applications, the defendants would not suffer any prejudice.

6. On the contrary, it is contended by the learned counsel for the respondents/defendants that there is no illegality nor there exists any infirmity in the impugned order, as such, the impugned order is not amenable for any judicial review under Article 227 of the Constitution of India. It is the further submission of the learned counsel for the respondents that only after considering the entire material available on record, the learned Judge dismissed the applications, as such, impugned order does not warrant any interference of this Court. It is also the submission of the learned counsel that

the plaintiff/petitioner did not prove her due diligence towards the matter and there is absolutely no reason for not filing the documents earlier.

7. In the above backdrop, now the issue that boils down for consideration of this Court is:

“Whether the order passed by the learned III Additional District Judge is sustainable and tenable or the same warrants any interference of this Court under Article 227 of the Constitution of India?”

8. The information available before this Court discloses vividly that at the fag end of the evidence of the defendants, the present applications were filed before the Court below. As per the provisions of Order 7 Rule 14(1), it is incumbent on the part of the plaintiff to file the documents on which he places reliance along with plaint. Clause (3) of Rule 14 of Order 7 is a departure to clause (1) of Rule 14 of Order 7. As per clause (3) of Rule 14 of Order 7, no document shall be permitted to be filed before the Court except with the leave of the Court. The said provision of law, which stipulates leave of the Court, implies and imposes an obligation on the part of the person applying for to demonstrate the reasons for not filing those documents along with the plaint despite due diligence. In the considered opinion of this Court, the petitioner did not show such due diligence.

9. Another significant aspect which needs mention at this juncture is that the learned Judge categorically recorded a finding that the documents sought to be received are on insufficiently stamped papers and they cannot be received in evidence in the absence of payment of stamp duty, penalty and registration.

10. It is a settled proposition of law that unless the order impugned suffers from patent perversity, the invocation of the jurisdiction of this Court under Article 227 of the Constitution of India is impermissible. This Court does not find any such infirmity in the present impugned order.

11. For the aforesaid reasons, Revision Petitions are dismissed. Miscellaneous petitions pending consideration, if any, in these cases shall stand closed in consequence. No order as to costs.

A.V.SESHA SAI, J

02.09.2016

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