

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

FRIDAY, THE ELEVENTH DAY OF MARCH
TWO THOUSAND AND SIXTEEN

PRESENT
THE HON'BLE SRI JUSTICE M.S.K.JAISWAL

CIVIL REVISION PETITION No.500 of 2016

Between:

Kottakota Krishnamurthy

..... **PETITIONER/DEFENDANT No.1**

AND

Kottakota Lakshmana Rao and 2 others

...**RESPONDENTS**

The Court made the following:

THE HON'BLE SRI JUSTICE M.S.K.JAISWAL

CIVIL REVISION PETITION No.500 of 2016

ORDER:

This civil revision petition is filed against the order dated 07.12.2015 in I.A.No.765/2015 in O.S.No.80/2010 on the file of the Senior Civil Judge, Bobbili.

Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondents.

The petitioner herein is the 1st defendant. The respondents are the plaintiffs and they filed the suit for partition. The evidence of the respondents/plaintiffs concluded and when the suit is coming up for the

defendants' side evidence, the petitioner/1st defendant filed the petition under Order VIII Rule-1(3) CPC to receive two documents which are described as partition deed dated 01.07.1979 and agreement of sale dated 09.03.1999 executed in favour of the wife of the 1st defendant by the plaintiffs. The Court below dismissed the said application on the ground that along with the written statement the petitioner did not file those documents and that even the grounds for non-filing of the said documents along with the written statement are not mentioned in the petition.

Upon perusal of the written statement, originally filed by the petitioner/1st defendant on 15.12.2010, it is noticed that a detailed reference is made with regard to the two documents which are now sought to be filed. It is no doubt true that grounds for not filing these documents are not specifically mentioned in the petition. However, since the suit is filed for partition and the evidence is not concluded, an opportunity is to be given to the petitioner/1st defendant to establish his claim. However, the documents are to be received subject to proof and relevancy.

In view of the above, the order impugned is set aside, subject to payment of costs of Rs.1,000/- (Rupees one thousand only), payable by the petitioner/1st defendant to the concerned District Legal Services Authority.

The Civil Revision Petition is accordingly disposed of.

Pending miscellaneous applications, if any, shall stand closed in consequence.

M.S.K.JAISWAL,J

Date: 11.03.2016
Dsr