

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

Civil Revision Petition No.2086 of 2012

ORDER:

Being aggrieved of the order returning the petition filed by the petitioners under Order XXI rule 72 read with Section 151 of the Code of Civil Procedure, 1908 ('the Code', for brevity) without registering the same for disposal on merits, the present civil revision petition is filed by the petitioners under Article 227 of the Constitution of India.

At the hearing, the learned counsel for the petitioners and the learned counsel for the respondents would submit that the suit is one for partition and that since some of the properties, which are subject matter of the preliminary decree and final decree for partition are not fit for partition, an auction was held by the Court below and that in the said auction, the petitioners became successful bidders and that they have already deposited 1/4th amount out of the bid amount and that when the present application is filed for permission to deposit the balance amount, the petition was returned without being entertained for disposal on merits.

The learned counsel for the parties would further submit that if the trial Court is directed to number the application and dispose of the same on merits, the ends of justice would be met.

Recording the aforesaid submissions, the Civil Revision Petition is disposed of directing the Court below to number/register the application filed by the petitioners under Order 21 Rule 72 read with Section 151 of the Code, if it is otherwise in order and dispose of the same in strict accordance with the procedure established by law, however, after giving an opportunity to the opposite parties to file counter. There shall be no order as to costs.

Miscellaneous petitions pending, if any, in this civil revision petition shall stand closed.

M. SEETHARAMA MURTI, J

Date:23.02.2016

Note: The Registry is directed to return the original petition said to have been filed along with the material papers to the learned counsel for the revision petitioners under proper acknowledgment so as to enable the parties to re-present the same before the Court below.

(B/o)

Vjl