

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

CRP.Nos.3463 and 3366 of 2016

COMMON ORDER :

The petitioner herein is plaintiff in O.S.No.482 of 2014 on the file of Principal Senior Civil Judge, Eluru.

2. She filed the said suit for partition of the plaint schedule properties for allotment of 6/25th share, and for separate possession of the same.

3. Pending suit, she filed I.A.No.2096 of 2014 under Order XXXIX, Rule 1 and 2 C.P.C., for grant of temporary injunction restraining the respondents from interfering with her peaceful possession and enjoyment of the plaint schedule property; and I.A.No.2232 of 2014 for appointment of an Advocate-Receiver to handover the crop in existence on the plaint schedule property, to sell the same, and to deposit it to the credit of the Court.

4. By separate orders, dt.04.03.2015, the Trial Court dismissed both the applications.

5. The trial court held that normally in a partition suit, appointment of receiver is not done without considering the entire facts and circumstances, and that an applicant seeking appointment of a receiver must make out a case that such party was not only kept out of possession of the property unauthorizedly, but the party in

possession was indulging in acts of waste or for other like reasons. It also held that petitioner was not in possession of the property and denied temporary injunction to her.

6. Aggrieved thereby, the petitioner filed CMA.No.12 of 2015 before the II Additional District Judge, West Godavari, Eluru against the order refusing temporary injunction; and C.M.A.No.10 of 2015 against the order of the trial court refusing to appoint a receiver.

7. Both these appeals were dismissed by a common order dt.14.12.2015

8. Challenging the same, these two Revisions are filed.

9. Though the counsel for petitioner sought to contend that the orders passed by the lower appellate court are not sustainable and that they have not applied correct principles of law for deciding the applications filed by petitioner, after perusing the orders passed by the Trial Court as well as the Appellate Court, I am of the opinion that the orders passed therein are based on the material produced by the parties and that the Courts below had correctly applied the legal principles relating to appointment of a receiver in a partition suit and for grant of perpetual injunction, pending suit.

10. Therefore, I am not inclined to interfere with the said orders in exercise of limited revisional jurisdiction vested in this Court.

11. Accordingly, the Civil Revision Petitions are dismissed. However, the Trial Court is directed to expedite the disposal of the suit, and dispose it of preferably within a period of one (01) year from the date of receipt of a copy of this order uninfluenced by its observations in I.A.No.2096 of 2014 or CMA.No.12 of 2015 or CMA.No.10 of 2015 or this order.

12. As a sequel, miscellaneous petitions pending if any in these Civil Revision Petitions, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 18-11-2016

Ndr/*

