

The Hon'ble Sri Justice C.V.Nagarjuna Reddy

Civil Revision Petition No.5594 of 2015

Date: 05.02.2016

Between:

Syed Rihana

.. Petitioner

and

Syed Babu and 8 others

.. Respondents

Counsel for the petitioner : Mr.P.Phalguna Rao

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The Court made the following:

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Order:

This Civil Revision Petition arises out of Order, dated 05-10-2015, in IA.No.540 of 2015 in OS.No.574 of 2013, on the file of the Court of the

learned I Additional Senior Civil Judge, Guntur.

The petitioner filed the above mentioned suit for partition and separate possession of the suit schedule properties. After completion of trial, respondent No.2, who is defendant No.2, filed IA.No.540 of 2015 for adding item Nos.2 to 4 of the petition schedule properties (for short 'the subject properties') on the ground that they are joint family properties.

The petitioner filed a counter-affidavit resisting the said application by taking the plea that the subject properties were partitioned long back and that they are not available for partition. The lower Court has, however, allowed the said application.

On going through the reasoning of the lower Court, I find merit in the submission of the learned Counsel for the petitioner. Despite rendering a finding that respondent No.2 has not filed any proof to show that the subject properties are available, the lower Court has allowed the said application. However, I am not inclined to interfere with the order of the lower Court for the reason that even if the lower Court has erroneously allowed the

application of respondent No.2, the same will not cause prejudice to the petitioner's interests as the burden lies on respondent No.2 to prove that the subject properties are also liable for partition. At the most, there is a likelihood of some delay in disposal of the suit.

For the above mentioned reasons, I do not find any merit in this Civil Revision Petition and the same is, accordingly, dismissed. However, the lower Court is directed to dispose of the suit expeditiously and not later than three months from the date of receipt of this order.

As a sequel to dismissal of the Civil Revision Petition, CRPMP.No.7337 of 2015, filed by the petitioner for interim relief, is disposed of as infructuous.

(C.V.Nagarjuna Reddy, J)

Dt: 5th February, 2016
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