

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY
CIVIL REVISION PETITION No.4843 OF 2016

ORDER:

This Civil Revision petition is filed against the order dated 14-09-2016 in I.A.No.792 of 2016 in O.S.No.3 of 2014, wherein the trial Court dismissed the application filed by the petitioner under Order 14 Rule 1 and 3 read with Section 151 C.P.C. for framing the additional issues.

Learned counsel for the petitioner submits that though the defendant No.2 raised such plea that subject property, which is the joint family property, the trial Court without considering the same dismissed the application. He also submits that the suit filed by the defendants 2 to 5 against the petitioner in O.S.No.39 of 2005 is pending, as such the present issue sought for should have been framed by the trial Court. He also submits that unless the issue, which is sought to be framed, the suit cannot be decided.

On the other hand, learned counsel appearing for the 1st respondent submits that when the petitioner has not raised such a plea that subject property is the joint family property, it is not open for him to file application and as such, the trial Court has rightly dismissed the application by observing the same.

A perusal of the written statement filed by the petitioner as defendant No.1 in O.S.No.3 of 2014 goes to show that he has not raised plea that subject property is the joint family property and learned counsel for the petitioner also not able to point out that any such plea is raised in the written statement filed by the petitioner. In fact, the petitioner admitted about execution of sale deed in the written statement. The trial Court also found that the first issue framed by it will cover the present issue.

In view of above facts and circumstances of the case, I am not inclined to entertain the revision and interfere with the order of the trial Court by exercising power under Article 227 of Constitution of India.

Accordingly, the Civil Revision Petition is dismissed. As a sequel to the disposal of this petition, miscellaneous petitions, if any, pending shall stand closed.

A.RAJASHEKER REDDY,J

04-11-2016
nvl



