

THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

CIVIL REVISION PETITION NO.3001 of 2016

ORDER:

The petitioner, who was the plaintiff in a suit for partition, has come up with the above revision petition challenging an order passed by the Court below in a final decree application whereby the request of the petitioner to direct the Collector, Machilipatnam, to drain the water out from a water tank was rejected.

Heard Dr. J.V.S.H. Sastry, learned counsel for the petitioner.

The petitioner herein was the 4th plaintiff in the suit. The suit was filed for partition and separate possession. A preliminary decree was already passed and it was confirmed by the appellate Court.

Thereafter, the petitioner filed a final decree application in I.A.No.1043 of 2008. During the pendency of the final decree application, the petitioner took out a miscellaneous petition seeking a direction to the District Collector to drain the water out from a water tank on the ground that it was part of the suit schedule property and that the Commissioners appointed by the trial Court could not measure the property and survey it due to the water inundation. But this application was dismissed by the Court below forcing the petitioner to come up with the above revision petition.

At the out set, I do not know how the petitioner was able to maintain the application in I.A.No.1137 of 2015. The prayer in the interlocutory application was for a direction to the District Collector. The District Collector was not and could not have been a party either to the preliminary decree proceedings or to the final decree proceedings. Therefore, no direction can be sought against a person, who was not a party to the main proceedings.

More over, the trial Court has pointed out that the land in question as well as other adjoining lands are fish tanks belonging to 25 ryots. They were not made parties to the proceedings. Therefore, it

is not possible to give a direction behind their back. Hence, the dismissal of the application filed by the petitioner was perfectly in order. Therefore, the Civil Revision Petition is dismissed as devoid of merits. There shall be no order as to costs.

As a sequel, miscellaneous petitions pending, if any, shall stand closed.

JUSTICE V. RAMASUBRAMANIAN

24th June, 2016
Js.