

THE HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CIVIL REVISION PETITION No.3255 OF 2017

ORDER:

Heard Sri B. Ramesh, learned counsel for the petitioners, and Smt. A. Padma, learned counsel for the 1st respondent. The 2nd respondent has not entered appearance.

2. The present Revision Petition is filed under Section 115 of the Civil Procedure Code, 1908 (for short, 'C.P.C.') questioning the order dated 8.9.2016 in E.A. No.42 of 2016 in E.P. No.21 of 2012 in O.S. No.44 of 2001 on the file of Senior Civil Judge, Sompeta, Srikakulam District, on the ground that the application in E.A. No.10 of 2016 to grant leave to receive and to mark the certified copy of Registered Sale Deed, dated 27.02.1988 executed by one Konchada Laxmana Rao in favour of Potnuru Ramanayya, was filed under Order VII Rule 14 (3) of C.P.C. was not applicable, the learned Senior Civil Judge, Sompeta, dismissed it. Thus, he did not touch the merits. The order passed which is under challenge reads thus:

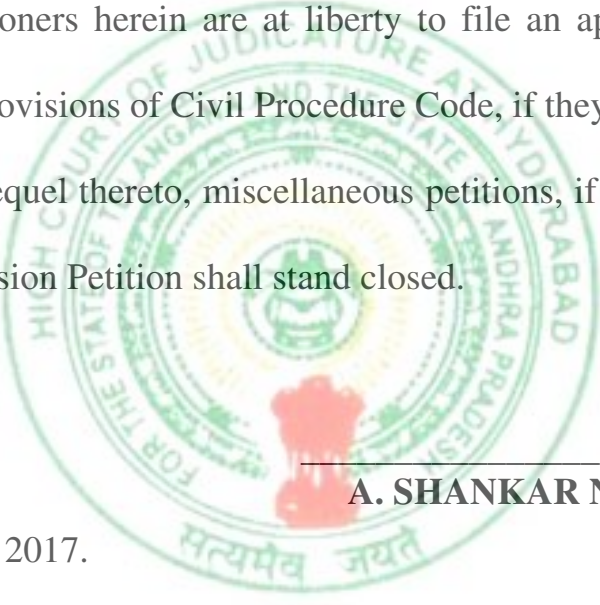
“Heard. Perused. It is clear that Order VII Rule 14 (3) C.P.C. has no any application in respect of E.P. proceedings as such the petition is devoid of merits and it has to be dismissed. In the result, E.A. dismissed without costs.”

3. The learned Senior Civil Judge, Sompeta, ought to have dealt with merits also, instead of just dismissing the application on technicality. Even otherwise, chance can be afforded to the revision petitioners herein to file an application under the appropriate

provision of Civil Procedure Code, so that the learned Senior Civil Judge, Sompeta, would dispose of the application on merits in accordance with law by affording chance of hearing to both sides

4. Therefore, the Civil Revision Petition is allowed setting aside the order under challenge, with a direction to the learned Senior Civil Judge, Sompeta, to dispose of the application on merits in accordance with law by affording chance of hearing to both sides in case an application under relevant provisions of C.P.C. is filed. The revision petitioners herein are at liberty to file an application under appropriate provisions of Civil Procedure Code, if they so choose.

As a sequel thereto, miscellaneous petitions, if any, pending in the Civil Revision Petition shall stand closed.



A. SHANKAR NARAYANA, J

December 12, 2017.

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