

THE HON' BLE SRI JUSTICE C.PRAVEEN KUMAR

CIVIL REVISION PETITION No. 1549 of 2017

ORDER:

1) Aggrieved by the order dated 06.03.2017, passed in I.A.No.33 of 2017 in O.S.No.41 of 2004 on the file of the IV Additional District Judge, Tirupati, wherein an application filed under Section 151 of Cr.P.C. to re-open the case for adducing further evidence on behalf of the 2nd defendant was dismissed, the present Civil Revision Petition is filed under Article 227 of the Constitution of India.

2) The facts in issue are that O.S.No.41 of 2004 came to be filed by the plaintiffs against the defendants seeking partition and separate possession. During the course of trial, the plaintiffs examined PWs.1 to 7, defendant No.13 examined DWs.1 to 4 and contesting defendants 1 and 2 got examined themselves as DWs.5 and 6. The record shows that in 05.01.2017, defendant No.2 filed his chief affidavit and was cross-examined by the plaintiffs. Later the matter was posted to 17.01.2017 for producing further evidence on his behalf. On 17.01.2017, as the petitioner failed to produce evidence on his behalf, the evidence was closed. On 20.01.2017, the petitioner filed I.A.No.33 of 2017 seeking to examine one K.Krishna Reddy and also filed his chief affidavit. The trial Court dismissed the said petition. Challenging the same the present Civil Revision Petition is filed.

3) Learned counsel for the petitioner mainly submits that since the suit is for partition, it would be just and proper to permit the petitioner to adduce the evidence of only one witness by name Krishna Reddy to speak about the will dated 20.02.1988 executed by the father of the petitioner. The same is strongly opposed by the learned counsel for the plaintiffs contending that the suit is of the year 2004 and the matter is being prolonged from time to time on one pretext or the other.

4) Having regard to the facts and circumstances of the case and in order to give an opportunity to the petitioner to adduce evidence, and as the parties are agitating their rights from 2004 onwards, this Court is of the view that the order under challenge warrants interference.

5) Accordingly, the Civil Revision Petition is allowed directing the petitioner to produce his witness on the next date of adjournment and the counsel for the plaintiffs shall cross-examine the witness on the said date and thereafter the trial Court shall proceed in accordance with law on day-to-day basis. There shall be no order as to costs.

6) Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE C. PRAVEEN KUMAR

20.06.2017
gkv

