

HON'BLE DR. JUSTICE B. SIVA SANKARA RAO

CIVIL REVISION PETITION No.1655 of 2016

ORDER:

Heard both sides and perused the grounds of revision and the impugned order of the lower Court dated 20.01.2016 and the other material on record.

Undisputedly in the very suit for partition in O.S.No.105 of 2012, the plaintiffs/petitioners herein impleaded the 4 defendants including the 4th defendant in saying they are also having some element of interest over one or other properties. It is pending suit, I.A.No.1327 of 2015 was filed for amendment of the plaint with a prayer to delete item No.1 of the plaint schedule property saying the defendant Nos.1 & 2 sold the property to a third party and thereby that item to be deleted for the plaintiffs have no objection. In fact, 4th defendant opposed the petition by filing counter. Once the properties are liable for partition and even it is the contest of the plaintiffs in saying the 4th defendant has no right in item No.1 property, but for in some of the other items, that is a matter to be adjudicated in the suit by passing preliminary decree and at best the plaintiffs and defendant Nos.1 & 2 or any of them in seeking for impleadment of the pendilite alienee as co-defendant or co-plaintiff to the suit invoking Order XXII Rule 10 CPC r/w Section 52 of Transfer of Property Act and ask for allotment of the alienated property to the share of them and consequently to the purchaser to workout any equity, but for that there is nothing to delete the item. Thereby the dismissal order no way requires to set aside but for to clarify as above.

Accordingly and in the result, the Civil Revision Petition is disposed of with above observation for nothing more to interfere much less to allow in toto permitting for deletion.

Consequently, miscellaneous petitions, if any shall stand closed. No costs.

JUSTICE Dr. B.SIVA SANKARA RAO

Date: 14.12.2017
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