

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

CIVIL REVISION PETITION 4120 of 2017

ORDER:

This Civil Revision Petition, under Article 227 of the Constitution of India, is filed by the unsuccessful plaintiffs/petitioners, assailing the order, dated 05.07.2017, of the learned Additional Judge – cum – VI Senior Civil Judge, City Small Causes Court, Hyderabad, passed in I.A.No.115 of 2017 in O.S.No.399 of 2004.

2. I have heard the submissions of the learned counsel for the Revision petitioners/plaintiffs 3 and 5. I have perused the material record.

3. Having regard to the facts and submissions, this Court is of the considered view that this Revision can be disposed of at the stage of admission without ordering notices to the respondents.

4. In a suit for partition and other reliefs, the plaintiffs herein filed an application to grant leave to file documents and receive the same on file. However, the trial Court first noted that the said petition was filed under Order VII Rule 18 of the Code of Civil Procedure, 1908, which is not on the statute book and that the petition ought to have been filed under Order VII Rule 14(3) of the Code. Be that as it may.

5. The learned counsel for the Revision petitioners/plaintiffs 3 and 5 would submit that the affidavit filed in support of the petition

seeking leave to file the documents is not properly drafted and that in the said affidavit explanation for the delay and reasons required to be stated for seeking leave to file the documents are not stated by inadvertence and mistake and that, therefore, the petition was dismissed by the trial Court and hence, an opportunity may be given to the Revision Petitioners/plaintiffs 3 and 5 to file a fresh petition for the same relief by giving valid explanation for delay and reasons for seeking leave for filing the documents after the trial has commenced.

6. A perusal of the order impugned shows that in the application which was dismissed, the contesting respondents have not filed counter opposing the said application.

7. On the above analysis of the facts and submissions and in view of the request made by the plaintiffs 3 and 5/petitioners herein and as it is permissible in the facts and circumstances to file a fresh application for the same relief, this Court finds that this Revision can accordingly be disposed of with appropriate directions.

7. In the result, this Civil Revision Petition is disposed of giving liberty to the petitioners herein/plaintiffs 3 and 5 to file, as desired, a fresh application for the same relief, which the law permits, however, in accordance with the procedure established by law.

It is needless to state that if any such application comes to be filed, the trial Court shall give an opportunity to the contesting parties to file their counters, if any, and then decide the said application on its merits and in accordance with procedure established by law.

There shall be no order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

21st August, 2017
Bvv

M.Seetharama Murthi, J

