

THE HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

CIVIL REVISION PETITION NO.3588 OF 2014

ORDER:

Heard both sides.

Basically Rule 28 of the Code of Civil Procedure contemplates rejection of the application if consequential amendment is not sought for. The lower Court did not reject but for returned and on return from filing of the neat copy, there is an amendment consequently sought, which is to add in para No.9 of the plaint as amended para 9 (1) as follows:

“ for partition and separate possession of their 6/10th share of plaintiff No.1 and defendant No.4 and 1/10th share of plaintiff No.1 and Plaintiff Nos. 3 to 10”.

Once such is the case, the dismissal order of the lower Court Dt. 29.07.2014 in I.A.No.64 of 2014 in the pending Suit No.24 of 2009 in brining the legal representatives of the plaintiff No.2 as Plaintiff Nos. 3 to 10 is unsustainable and thereby the dismissal Order of the trial Court is set aside and the application is restored to the Lower Court with a direction to hear and dispose of the same on merits within a period of one month from the date of receipt of a copy of this Order.

Consequently, miscellaneous applications pending if any, shall stand closed.

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