

THE HON' BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CIVIL REVISION PETITION No.1352 of 2017

ORDER:

This petition under Article 227 of Constitution of India is filed challenging the order in I.A.No.304 of 2015 in O.S.No.933 of 1981, dated 23-01-2017 on the file of II Senior Civil Judge, City Civil Court, Hyderabad, whereby the trial Court permitted both parties to lead evidence in view of the disputed facts.

It is the contention of learned counsel for the petitioners that preliminary decree was passed by the Court below, which attained finality in the Supreme Court. Instead of appointing an Advocate Commissioner in an application filed under Order 26 Rule 13 read with Order 20 Rule 18 of C.P.C. the trial Court passed impugned cryptic order.

Learned counsel for the petitioners reiterated the said ground mainly contending that the trial Court deviated the normal procedure to appoint Advocate Commissioner and in the petition filed under Order 20 Rule 18 C.P.C. passed the cryptic order. Further the report raised several contentions mainly on the ground that no preliminary decree was drafted by the Supreme Court finally and in the absence of preliminary decree, final decree cannot be passed. He also raised specific contention that the petitioners herein are not entitled to share in the amount deposited pertaining to item Nos 9 to 14 and the property covered by item Nos 9 to 14 is not liable to be partitioned.

A bare look at the impugned order, the trial Court without considering any of the contentions raised by both the petitioners and respondents passed cryptic order permitting both parties to lead evidence. None of the contentions raised by both counsel based on documents and at best decrees passed by the Courts if produced will

resolve the entire dispute. Therefore, the cryptic order passed by the trial Court is hereby set aside while remanding the matter to the trial Court to decide the matter in accordance with law considering the contentions raised by the learned counsel for the petitioners and respondents as expeditiously as possible in any event not later than two months from the date of receipt of a copy of this order.

With the above direction, this revision petition is disposed of. As a sequel to the disposal of this revision petition, miscellaneous petitions, if any, pending shall stand closed.

27-06-2017

Note:
Issue CC by 30-06-2017.
B/o.
Nvl

JUSTICE M. SATYANARAYANA MURTHY

