

HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

CIVIL REVISION PETITION No.5 of 2017

ORDER:

This petition is arising out of the order, dated 02.12.2016 in I.A.No.508 of 2016 in O.S.No.144 of 2011 on the file of the Senior Civil Judge, Bobbili.

The revision petitioner is the 3rd defendant and respondents 1 and 2 are the plaintiffs in the above said suit, which was filed for partition.

The District Court in T.O.P.No.230 of 2015 passed orders to club the above said suit with O.S.No.132 of 2015 for joint trial. The finding of the trial Court is that the two suits were tried together by recording evidence in one suit. The evidence recorded in one suit will be treated as the evidence in another suit. The witnesses sought to be examined by the revision petitioner, were already examined before the trial Court in one of the suits, and he reported no further evidence in O.S.No.132 of 2015.

Learned counsel for the revision petitioner submits that though both the suits were clubbed together, the trial Court has given opportunity to the defendants to adduce their evidence only in O.S.No.132 of 2015 and no opportunity was given to examine their witnesses in O.S.No.144 of 2011. Therefore, the revision petitioner prays for opportunity to give evidence in O.S.No.144 of 2011.

When the trial Court given an opportunity to both the parties to examine their witnesses in O.S.No.132 of 2015, it should also give an opportunity to the defendants in O.S.No.144 of 2011 to adduce their evidence. No doubt both these suits were clubbed

together, but it does not mean that the opportunity should not be given in O.S.No.144 of 2011.

In view of the foregoing reasons, the CRP is allowed setting aside the order dated 02.12.2016 in I.A.No.508 of 2016 in O.S.No.144 of 2011 on the file of Senior Civil Judge's Court, Bobbili and the trial Court is directed to give an opportunity to the revision petitioner to examine their witnesses in O.S.No.144 of 2011 and dispose of the matter expeditiously. There shall be no order as to costs.

The Miscellaneous Petitions, if any, pending in this CRP shall stand closed.

Date : 16.02.2017
ssp

GUDISEVA SHYAM PRASAD,J

