

HON'BLE SRI JUSTICE S.V.BHATT**CIVIL REVISION PETITION No.3631 of 2017****ORDER :**

Defendant No.1 in O.S.No.153 of 2012 in the Court of Senior Civil Judge, Sirisilla is the Revision Petitioner. The 1st respondent filed Suit for partition. The Revision Petitioner filed written statement and is contesting the prayer for partition.

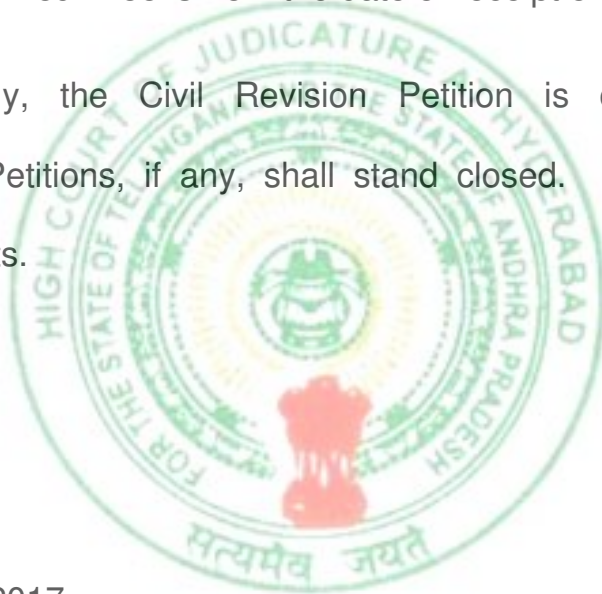
2. The Revision Petitioner filed I.A.No.135 of 2016 under Order VIII, Rule 1 A (3) r/w S.151 of C.P.C. seeking permission of the Court to receive the documents i.e., certified copies of registered sale deed bearing document No. 1/2013 dated 31.12.2012 of respondent/plaintiff, registered sale deed bearing document No. 2/2013 dated 31.12.2012 of the respondent/plaintiff, registered sale deed bearing document No. 8116/2013 dated 16.09.2013 of Smt. Rajkumari Raghunath Prasad Kesharwani and Smt. Hema Rajesh Kesharwani and certified copy of registered sale deed bearing document No. 3216/2005 dated 03.08.2005. The prayer was opposed by 1st respondent.

3. The learned Trial Judge through the order impugned in the Revision, dismissed the I.A.No.135 of 2016. Hence, this revision. The operative portion of the order reads as follows:

Perused the record, which revealed that though the certified copies of said documents for obtaining on 05.09.1993, but the same were not filed at the time of filing his written statement on 22.03.2013. As rightly contended by the respondent/ plaintiff's counsel, the documents proposed to be received, are not pertaining to the suit schedule property and they are relating to properties situated at Bhiwandi, not filed.

4. After taking note of the reasons given by the Trial Court, this Court is of the view that the learned Trial Judge ought to have considered the prayer of the petitioner in the light of order VIII, Rule 1 A (3) r/w S.151 of C.P.C and also a few binding precedents on which the petitioner is relying. This Court, at the stage of the matter, does not want to independently examine and decide whether the prayer to entertain the documents ought to be allowed or not. Since this Court is not in agreement with the brief consideration and disposal of the prayer, the order impugned is set aside. I.A. No. 135 of 2016 is remitted to Trial Court for consideration and disposal afresh in accordance with law. The said exercise shall be undertaken within four weeks from the date of receipt of copy of this order.

5. Accordingly, the Civil Revision Petition is disposed of. The Miscellaneous Petitions, if any, shall stand closed. There shall be no orders as to costs.



S V BHATT, J

30th November, 2017.

JR