

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CIVIL REVISION PETITION NO.5744 OF 2016

ORDER:

This Civil Revision Petition, under Article 227 of the Constitution of India, is filed challenging the order passed in O.S.(SR).No.6157 of 2016 dated 03.06.2016 passed by the Chief Judge, City Civil Court, Hyderabad.

The docket order in O.S.(SR).No.6157 of 2016 dated 03.06.2016 passed by the Chief Judge, City Civil Court, Hyderabad, reads as follows:

“File before proper Court, hence return. Time (7) days.”

The suit was filed for declaration of petitioners/plaintiffs as legal heirs of late G. Ram Chandra Reddy to all the proceedings including the suit schedule property and to award the cost of the suit by various several contentions. But the Trial Court, by exercising power under Order VII Rule 10 C.P.C, returned the plaint for presentation before the proper Court.

Order VII Rule 10 C.P.C deals with Return of plaint. According to Sub-clause (1) of Rule 10 Order VII C.P.C, subject to the provisions of Rule 10-A, the plaint shall at any stage of the suit be returned to be presented to the Court in which the suit should have been instituted. Sub-clause (2) of Rule 10 deals with procedure on returning plaint. On returning a plaint the Judge shall endorse thereon the date of its presentation and return, the name of the party presenting it and a brief statement of reasons for returning it.

Thus, according to Sub-Clause (1) of Rule 10, only when the Court comes to a conclusion that when the plaint is presented is incompetent to try and decide the matter for presentation before proper Court, the Court can return the plaint.

But, here, the Court returned the plaint for presentation before proper Court. what is proper Court is not known and no opportunity was given to the petitioners/plaintiffs under Order VII Rule 10-A C.P.C. Therefore, the order passed in O.S.(SR).No.6157 of 2016 dated 03.06.2016 is set-aside and the Trial Court is directed to decide the plaint, if it is in accordance with law, subject to territorial and pecuniary jurisdiction. If the Trial Court finds that the Court is lacking territorial or pecuniary jurisdiction, the Court may after affording reasonable opportunity, return the plaint, since the order under challenge is bereft of any reason.

With the above direction, civil revision petition is disposed of.

Consequently, miscellaneous applications pending if any, shall stand closed. No costs.

JUSTICE M. SATYANARAYANA MURTHY

Date:03.07.2017

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