

HON'BLE Dr. JUSTICE B.SIVA SANKARA RAO

C.R.P. No.4785 OF 2016

ORDER:

The 1st defendant in O.S. No.73 of 2005, which is a suit for partition, on the file of the XII Additional Chief Judge, City Civil Court, Hyderabad, is the revision petitioner impugns the dismissal order of the lower Court in I.A. No.3739 of 2007 dated 04.04.2016. It was the application filed under Order I Rule 10 (2) C.P.C to implead the sons of the defendants and plaintiffs as co-defendant Nos.5 to 8. Impugning the same, the present revision is filed.

2) Heard both sides and perused the material on record.

3) Once the plaintiff and defendants 1 to 3 are the brothers and sons of late Madanlal Ganeriwala and Laxmi Bai and they are representing their respective branches and their children again need not be impleaded as necessary parties or proper parties to the lis, as even in the absence of the children, once the family manager representing their interest in the estate as the father—manager. Once such is the case, the lower Court is right in dismissing the application for impleadment of the children of the plaintiff and defendants 1 to 3 as co-defendants to the suit.

4) No doubt, if at all from the arguments advanced, the sisters of the plaintiff and defendants 1 to 3 and daughters of 4th defendant and late Mandalal Ganeriwala, if any, not as co-parceners, at least as class-1 legal heirs of late Madanlal Ganeriwala are once entitled to have share in the properties, they are to be impleaded as parties to the suit by the Court even *suo moto* invoking Order I Rule 10 (2) C.P.C.

5) Needless to say but for in answering the contention raised in the course of hearing the petition that, in future the shares of the children representing the branch of the plaintiff and defendants 1 to 3 also require to be worked out, such a recourse is left open even after preliminary decree defining the rights is passed.

4) With these observations, the revision is disposed of.
No order as to costs.

5) Consequently, pending miscellaneous petitions, if any, shall stand dismissed.

Dt.03.01.2017
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Dr.JUSTICE B. SIVA SANKARA RAO