

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

CIVIL REVISION PETITION No.6429 of 2017

ORDER :

Heard both sides.

Perused the grounds urged in the revision and the impugned order of the lower Court dated 05.10.2017 in I.A.No.1824 of 2016 in O.S.No.49 of 2013 filed by the unsuccessful defendant No.1 in the suit for dissolution of partnership and for rendition of accounts or the like including for division of the properties and giving of possession if any separately.

The question of partition and separate possession does not arise in a suit for partnership from the settled law in Addanki Narayanappa v. Bhaskar Krishnappa dies by L.Rs.¹ that even any immovable partnership firm like book assets to be distributed. The petitioner/ defendant No.1 having been served in the suit put forth appearance not in dispute, though no written statement filed and it is after ex parte decree passed, having waited for about 88 days or so came with a petition to set aside the ex parte decree and to receive the written statement, even inadvertently, the lower Court observed as if written statement already filed that is of little significance for any interference in the revision.

¹ AIR 1966 SC 1300

Having regard to the above, and for there is no any worth explanation and the only untenable explanation is out of threat and fear, the petitioner/defendant No.1 could not file written statement and contest the matter for more than 2 ½ years thereby, there is nothing to interfere, but for, to say any rights defined in the preliminary decree including to his so called 6% share to be worked out from the preliminary decree in the final decree proceedings including of filing any independent application pursuant to the preliminary decree.

Accordingly, the Civil Revision Petition is disposed of. No costs.

Consequently, miscellaneous petitions, if any, pending shall stand closed.

Date:22-11-2017
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Dr. B. SIVA SANKARA RAO, J

