

THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CIVIL REVISION PETITION No.6313 OF 2017

ORDER:

The present Civil Revision Petition, under Article 227 of the Constitution of India, is filed against the order, dated 22.09.2017, passed in F.D.I.A.No.29 of 2012 in O.S.No.296 of 2003 on the file of I Additional Senior Civil Judge, Kakinada, whereby and whereunder, the application filed under Order XX Rules 12 and 18 and Section 151 C.P.C. to appoint a Commissioner for partition of the decree schedule property into five equal shares and to allot 4/5th share to respondent Nos.5 and 6 - plaintiff Nos.5 and 6 according to the good and bad qualities and pass final decree with costs, was allowed.

2. As seen from the impugned order, respondent Nos.5 and 6 – plaintiff Nos.5 and 6 were allotted bit Nos.1 to 4, running from North to South and petitioners – defendant Nos.4 to 6 were allotted bit No.5 running from North to South. Accordingly, final decree was passed in terms of the preliminary decree. The Commissioner's report and plan were made part and parcel of the final decree.

3. Sri S. Subba Reddy, learned counsel for the petitioners would submit that the Court below without considering the objections filed by the petitioners, erred in allowing the application. According to him, the order under challenge is totally contrary to the earlier order passed by the Court.

4. Sri V. Sudhakar Reddy, learned counsel for the respondents, would submit that respondent Nos.5 and 6 – plaintiff Nos.5 and 6, have no objection for taking bit No.5 and handing over bit No.1 to the petitioners – defendant Nos.4 to 6.

5. Sri S. Subba Reddy, learned counsel for the petitioners, after consulting his clients, reported back stating that his clients have no objection to take bit No.1 instead of bit No.5.

6. In view of the understanding arrived at between the parties, bit Nos.2 to 5 are allotted to respondent Nos.5 and 6 – plaintiff Nos.5 and 6, while bit No.1 is allotted to the petitioners – defendant Nos.4 to 6.

7. With the above direction, the Civil Revision Petition is disposed of. It is needless to mention that, if any, application is filed by the petitioners herein for execution of the decree and if any, encroachments are found in the said bit No.1, the trial Court shall take steps in accordance with law.

Miscellaneous Petitions, if any, pending in this Civil Revision Petition shall stand closed. There shall be no order as to costs.

JUSTICE C. PRAVEEN KUMAR

December 29, 2017
MD