

HON' BLE SRI JUSTICE A. RAMALINGESWARA RAO

CIVIL REVISION PETITION No. 5915 of 2017

ORDER:

The petitioners are plaintiffs and respondents are defendants in OS No.92 of 2011 on the file of the Junior Civil Judge, Parchur. The petitioners filed the suit for permanent injunction and they sought for temporary injunction in IA No.481 of 2011. The court below by order dated 19.06.2012 granted temporary injunction and the said order was reversed in CMA No.6 of 2012 on the file of the court of Senior Civil Judge, Parchur by order dated 09.12.2014. Questioning the same, the petitioners preferred CRP No.5103 of 2014 and this court by order dated 16.02.2015 allowed the CRP and set aside the order passed in CMA No.6 of 2005 holding that the petitioners are entitled for injunction till the pendency of the suit. After dismissal of the CRP, the petitioners filed an application in IA No.352 of 2017 seeking amendment of the plaint and for declaration of title. The respondents/defendants raised an objection that the relief sought for is barred by limitation. However, the trial court by order dated 09.10.2017 dismissed IA No.322 of 2017 seeking amendment of the plaint. Challenging the same, the present revision petition is filed.

2. In the instant case, the suit was based on a registered will dated 26.4.1993 and the respondents/defendants filed their written statement on 16.12.2011 disputing the genuinity of the registered will. The court below observed that as per Article 58 of the Schedule-I of Limitation Act, 1963, the period of limitation is three years from the date of right to sue first accrues. Since the respondents/defendants denied the genuinity of the will in their written statement dated 16.12.2011, the period of limitation was expired by 16.12.2014. In view of the same, the trial court opined that the proposed amendment cannot be allowed after the period of limitation and accordingly,

dismissed the petition filed by the petitioners/ plaintiffs. The impugned order does not warrant any interference of this court. Hence the revision petition is liable to be dismissed.

3. Accordingly, the civil revision petition is dismissed. No costs. Miscellaneous Petitions, if any, pending in this civil revision Petition shall stand closed.

HON' BLE SRI JUSTICE A. RAMALINGESWARA RAO, J

Dt. 03.11.2017
Mj

