

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

C.R.P.No.6177 of 2017

ORDER:

This revision challenges the order dated 19.9.2017 passed by the Court of Principal Junior Civil Judge, Kurnool in I.A.No.1123 of 2017 in O.S.No.205 of 2012.

2. Defendants in O.S.No.205 of 2012 on the file of the said Court are the petitioners in the present revision filed under Article 227 of the Constitution of India.

3. The respondent herein instituted the said suit for declaration. The defendants/petitioners herein filed the present I.A.No.1123 of 2017 under Order 16, Rules 1 and 2 read with Section 151 of CPC to issue summons to the Tahsildar, Kallur to give evidence as to the nature of land involved in the suit. The plaintiff/respondent herein resisted the said application, by way of filing counter. The learned Principal Junior Civil Judge by way of impugned order, dismissed the said application. Hence the present revision.

4. According to the learned counsel for the petitioners, the order passed by the Court below is erroneous, contrary to law and is opposed to the very spirit and object of the provisions of Order 16 Rules 1 and 2 of CPC. It is the further submission of the learned counsel that in the event of application being allowed, a just and reasonable conclusion can be arrived at by the Court below. It is also the submission of the learned counsel that had the contents of the affidavit filed in support of the

application been considered from proper perspective, the order impugned would not have emanated.

5. The material available before the Court discloses that the petitioners herein earlier filed I.A.No.1610 of 2016 for the same relief and the learned Principal Junior Civil Judge, Kurnool dismissed the said application. In the affidavit filed in support of the present application, the petitioners herein stated that though they filed E xs.B1 to B3 relating to the nature of possession and enjoyment, the same was overlooked by the Court.

6. Admittedly, the petitioners herein did not file any revision against the said order and the said order attained finality. Therefore, in the considered opinion of this Court, the present application filed by the petitioners herein is not maintainable for the same relief. In fact, while observing so, the learned Principal Junior Civil Judge dismissed the application filed by the petitioners herein. Therefore, this court does not find any valid reason to meddle with the order passed by the Court below.

7. Accordingly, the C.R.P. is dismissed. As a sequel, the miscellaneous petitions, if any, shall stand closed. There shall be no order as to costs.

A.V.SESHA SAI, J

Date: 17.11.2017
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17.11.2017

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