

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

CRP.No.5548 of 2017

ORDER :

Heard the counsel for Revision Petitioner. None appeared for respondents.

2. This Civil Revision Petition is filed assailing the order dt.18.09.2017 in I.A.No.764 of 2017 in O.S.No.48 of 2013 on the file of II Additional District Judge, West Godavari, Eluru.

3. The Revision Petitioner herein is 2nd defendant in the said suit.

4. The 1st respondent is her sister, and 2nd respondent is her father.

5. The 1st respondent had filed the suit against the petitioner and 2nd respondent for a declaration that she is absolute owner of the plaint schedule property, and for a direction to petitioner and 2nd respondent to vacate and hand over the same to her and also to cancel a sale deed dt.24.01.2013, executed by 2nd respondent in favour of the petitioner, in respect of the subject property.

6. No written statement was filed by petitioner and 2nd respondent opposing the suit claim.

7. Thereafter, issues were framed, trial commenced and the matter is now at the stage of examination of petitioner as a witness for the defendants.

8. At that stage, the petitioner has filed I.A.No.764 of 2017 seeking leave of the Court to file additional written statement invoking Order VIII Rule 9 of Civil Procedure Code alleging that disputes cropped up between her and 2nd respondent with regard to other properties, and false criminal complaints were lodged against her and her husband by 2nd respondent. It is also stated that petitioner had engaged another counsel to contest the suit on her behalf. Apart from this, it is contended that 2nd respondent did not conduct the suit properly to protect the interest of petitioner and had acted detrimental to her interest, and is trying to promote the interest of 1st respondent / plaintiff.

9. This application was opposed by 1st respondent. She contended that there was no collusion between her and 2nd respondent; that petitioner was present by the side of 2nd respondent when he underwent cross-examination at his residence, and she was also present when the 1st respondent and her witnesses were examined in the Court Hall; that petitioner had participated in all the proceedings; and since the trial had commenced long back, at this stage it is not appropriate to permit the petitioner to file additional written statement.

10. The 2nd respondent also filed a counter opposing the application.

11. By order dt.18.09.2017, the Court below dismissed the said application. It held that whether the 2nd respondent evinced proper

interest to support the case of petitioner or is colluding with the 1st respondent, are not material facts to be brought on record by filing additional written statement; that evidence of petitioner had not yet commenced; and on behalf of 1st respondent, the 2nd respondent did not depose, and nothing prevented the petitioner from prosecuting her case properly; and that if any new facts are found during the pendency of the suit with regard to the issues involved in the case then there may be necessity to permit the petitioner to file an additional written statement before the Court, but it cannot be allowed on the ground that the 2nd respondent, who is her General Power of Attorney, had not evinced interest in prosecuting her case.

12. Assailing the same, the present Civil Revision Petition is filed.

13. The counsel for petitioner contended that petitioner ought to have been permitted to file an additional written statement before the Court below on account of disputes then arising between petitioner and 2nd respondent subsequently.

14. Since the said disputes have nothing to do with the issues involved in the cases, and since the evidence of petitioner is yet to commence and trial in the suit having commenced long back, I see no error of jurisdiction in the order passed by the Court below refusing to permit petitioner to file additional written statement. I therefore do not find any merit in the Civil Revision Petition, and it is accordingly dismissed at the stage of Admission. No order as to costs.

15. As a sequel, miscellaneous petitions pending if any in this Civil Revision Petition, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 30-10-2017

Ndr/*

