

HON'BLE DR. JUSTICE B. SIVA SANKARA RAO

CIVIL REVISION PETITION No.6802 of 2017

ORDER:

Heard both sides and perused the grounds of revision and the impugned order of the lower Court.

Leave about the fact that even the suit is of 1997 the evidence of both parties closed by end of 2016 from death of sole/1st plaintiff, the legal representatives brought on record as can be seen from the record as per orders in I.A.No.339 of 2017 dated 30.08.2017 and neat copy filed subsequently on 04.09.2017 and the arguments heard of one side and it is coming for respondents side. Now it is say by the revision petitioner/16th defendant in his application in I.A.No.442 of 2017 before the lower Court that she is under bonafide impression having filed written statement and cross examined plaintiff's witnesses and other witness on record that she is contesting, however a perusal of the record from verification shows she was set exparte on 26.07.2004, which is coming in the way including by the court in permitting to exhibit sale deed in her favour executed by the so called GPA of the original plaintiffs and it is her saying that she is deprived of her evidence by virtue of that order which is not within her notice.

Having regard to the above and also for the fact that there is no limitation to file an application under Order IX Rule 7 CPC apart from the fact that even remained exparte can participate by a party in the subsequent proceedings from the reading of Order VIII Rule 10 CPC read with the expression of the Apex Court in

Balraj Taneja and Another Vs. Sunil Madan and Another¹. The trial Court by virtue of this order is directed if the document of the 16th defendant is not already on record to permit by its filing with a memo without need of filing a petition and exhibiting the same in B-series or as C-1 as the case may be and hear further arguments with reference to the document if any and decide the same on merits of the suit.

Accordingly and in the result, the Civil Revision Petition is disposed of.

Consequently, miscellaneous petitions, if any shall stand closed. No costs.

Date: 22.12.2017
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JUSTICE Dr. B.SIVA SANKARA RAO



¹ AIR 1999 SC 3381