

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CIVIL REVISION PETITION No.1546 of 2018

ORDER:

This civil revision petition is filed under Article 227 of the Constitution of India, assailing the order dated 19.12.2017 passed in I.A.No.548 of 2017 in O.S. No.443 of 2007 on the file of the Court of XXVI Additional Chief Judge, City Civil Court, Hyderabad.

2. In spite of service of notice, first respondent did not choose to appear before this Court. Hence, this Court is inclined to pass the orders, in this revision petition, on merits.

3. Heard the learned counsel for the petitioners.

4. The first respondent herein filed O.S. No.443 of 2007 on the file of the Court of XXVI Additional Chief Judge, City Civil Court, Hyderabad, against respondent Nos.2 to 35 herein, who are defendant Nos.1 to 33, for partition of the suit schedule property. Pending suit, first respondent filed I.A.No.548 of 2017 seeking to implead petitioners herein as defendant Nos.34 and 35. The trial Court, by the impugned order, allowed the petition. Aggrieved by the said order, the petitioners filed the present civil revision petition.

5. The predominant contention of the learned counsel for the petitioners is that the trial Court allowed I.A.No.548 of 2017 without notice to the petitioners.

6. A perusal of the record reveals that no notice was given to the petitioners before allowing the petition. It is needless to say

that the Court has to give notice to the proposed parties before impleading them as defendants. For one reason or the other, the trial Court did not issue notice to the petitioners, before passing the final order in I.A. No.548 of 2017. Any order passed by the Court, without giving notice to the affected party, would amount to violation of principles of natural justice. Viewed from any angle, the impugned order is not sustainable and is liable to be set aside.

7. In the result, the civil revision petition is allowed, setting aside the order dated 19.12.2017 in I.A. No.548 of 2017 in O.S.No.443 of 2007 on the file of the Court of XXVI Additional Chief Judge, City Civil Court, Hyderabad. The trial Court is directed to pass the orders in I.A.No.548 of 2017 afresh, after issuance of notice to the petitioners herein, so as to enable them to put-forth their stand. Miscellaneous petitions if any pending in this petition shall stand closed.

Date: 31.7.2018
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T.SUNIL CHOWDARY, J