

HON'BLE DR. JUSTICE B. SIVA SANKARA RAO

CIVIL REVISION PETITION No.2335 of 2018

ORDER:

Heard both sides and perused the impugned appeal order of the learned VII Additional District Judge, Prakasam District at Ongole, dated 07.03.2018, confirming the dismissal order of the temporary injunction passed by the learned I Additional Junior Civil Judge, Ongole, dated 08.12.2017, in I.A.No.532 of 2017 in the pending suit for bare injunction maintained by the two plaintiffs against the three defendants in O.S.No.473 of 2017.

2. The 2nd plaintiff is the husband of the 1st plaintiff, no other than brother of the 1st defendant and defendant Nos.2 and 3 are the sons of the 1st defendant. The 2nd plaintiff and the 1st defendant are the sons of late Pitchi Reddy. They possessed certain ancestral properties.

3. It is the case of the plaintiffs in maintaining the suit for injunction simplicitor including by placing reliance upon the so-called Ex.P.4-gift deed, dated 29.07.2017, said to have been executed by the 2nd plaintiff in favour of the 1st plaintiff for the land in Sy.No.66, total Ac.1.56 cents, of Pernamitta Village of Santhanuthalapadu Mandal of Prakasam District. It is the claim that there was oral partition in 1990 and in the said oral partition, among other properties, the total extent of Survey No.66 of Ac.1.56 cents fallen to the share of the 2nd plaintiff and the 1st defendant, his brother could not get any extent in that Survey No.66. To support that contention placed reliance by the

plaintiffs Exs.P.1 to P.4, leave about the so-called registered gift deed, dated 29.07.2017 is within the three months before filing of the suit on 23.10.2017. Exs.P.1 is the 1-B form, Ex.P.2 is the adangal and Ex.P.3 is the 1-B register entries. Exs.P.1 and P.3 placed reliance one that of the 2nd plaintiff and other that of the 1st defendant, to say the 1st defendant is not in possession nor entered in the revenue record for Survey No.66 and the 2nd plaintiff only in possession and entered in the revenue record for Survey No.66 supra. The adangal-Ex.P.2 is only of recent origin and there are no adangals filed much less any revenue records if at all maintained from the alleged oral partition of 1990 from or atleast after 1990 commencing from 1991 to believe that so-called oral partition as per the concurrent findings of the Courts below. However, the fact remains that the revenue record rightly or wrongly is indicating the name of the 2nd plaintiff for the entire extent. The counter-affidavit averment of the 1st defendant supported by their sons-other defendants, is that during the life time of the father of the 1st defendant and the 2nd plaintiff, by name Pitchi Reddy, there was an oral family arrangement for convenient enjoyment and as per the oral arrangement every survey number respective extent is equally divided and so far as Survey No.66, which is subject matter of the injunction suit schedule concerned, that the 1st defendant and the 2nd plaintiff each got Ac.0.78 cents in the Survey No.66 and as per the said oral arrangement, they are conveniently enjoying and there was no so far any partition. It is also the submission in the course of hearing the revision against the concurrent findings of the Courts below of the

temporary injunction application dismissal, that there is already a suit for partition filed by defendant Nos.2 and 3 against the 1st defendant and the 2nd plaintiff by showing the 1st plaintiff also questioning the said registered gift deed for the comprehensive relief.

4. Having regard to the above, the remedy is left open in that suit if at all to appoint any advocate receiver or party receiver for any of the properties including the Survey No.66 if at all concerned, subject to that the status quo as on today in the suit regarding the item to be maintained.

5. Accordingly, the civil revision petition is disposed of without expressing any opinion on the merits for nothing more to interfere with the concurrent findings of the Courts below, but for to work out the remedies by both parties in the partition suit.

Miscellaneous petitions pending, if any, shall stand closed. No costs.

23rd April 2018

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Dr. B. SIVA SANKARA RAO, J