

HON'BLE SRI JUSTICE SURESH KUMAR KAIT

CIVIL REVISION PETITION No.2258 of 2018

ORDER : (Oral)

Vide the present petition, the petitioners have assailed the order dated 22nd February 2018, passed in I.A.No.646 of 2017 in O.S.No.37 of 2013, whereby, the petition filed under Order 6, Rule 17 r/w.Sec.151 C.P.C. with a prayer to amend the written statement by additional pleas, has been dismissed.

2. Respondent No.1/plaintiff filed suit for partition against defendants 1 to 3. Defendants 4 to 7 are petitioners before this Court, who purchased the property by way of registered sale deed from defendants 1 to 3. Even in the main suit, defendants 1 to 3 remained *ex parte*. The trial Court has observed that there is material on record that defendants 1 to 3, the brothers of plaintiff, sold away the schedule property to the petitioners/defendants 4 to 7. Consequently, the 1st respondent/plaintiff filed the suit against her brothers i.e. defendants 1 to 3 and the purchasers of property i.e. petitioners before this Court. They filed written statement. The evidence on plaintiff's side is closed long back. While the matter was coming on for the defendants' side evidence, the aforesaid I.A.No.646 of 2017 is filed by the petitioners/defendants 4 to 7.

3. In the plaint, the plaintiff merely alleged that her brothers i.e. defendants 1 to 3, in collusion with defendants 4 to 7, created nominal documents in respect of schedule property. As a matter of fact, no

specific relief is claimed against the petitioners herein i.e. defendants 4 to 7.

4. The stand of the petitioners herein before the trial Court was that they purchased the property through registered sale deed from defendants 1 to 3, which is not denied by the plaintiff. Therefore, by way of amendment in the written statement, the petitioners want to establish that after purchasing the property, they constructed a building and are running school. That will have no effect either on the stand taken by the plaintiff or defendants 4 to 7 i.e. the petitioners herein.

5. Accordingly, I find no illegality or perversity in the order dated 22nd February 2018 passed in I.A.No.646 of 2017 in O.S.No.37 of 2013.

6. Finding no merit in the present revision petition, the same is accordingly dismissed. No order as to costs.

Pending miscellaneous applications, if any, shall stand closed.

17th April 2018

ajr

SURESH KUMAR KAIT, J