

HON'BLE SRI JUSTICE D.V.S.S.SOMAYAJULU

APPEAL SUIT No.544 of 2018

ORDER:

Learned Counsel for the appellant appears and states that proof of service has been filed with memo vide USR No.41417 of 2018. According to the said memo, notices sent to respondent Nos.3 and 10 returned with the endorsement 'refused'; notices sent to Nos.1, 2, 4, 5 and 7 to 9 were served; and Sri Borra Siva Sankara Rao, learned counsel appears for respondent No.6. This Court, therefore, holds that there is proper service. Only respondent No.6 is, however, represented before this Court. None of the other respondents appeared. This Court has perused the matter, and both the learned counsel made submissions on the impugned order.

It appears that the suit is filed by the plaintiff against the defendants seeking relief of decree of partition of the suit schedule property into seven shares. It does not appear from a reading of the impugned order that any written statement is filed by the defendants who appeared before the lower Court. No evidence is apparently recorded during the course of oral enquiry, of which nothing is mentioned in the appendix of the impugned order. The property was directed to be divided into 24 shares and even grand-children were allotted a share. It is,

thus, clear that the entire order passed is not in consonance with law or in provisions of the Hindu Succession Act, to which the Court below makes a reference. This is a fit case for remand with a direction to Court below to dispose of the suit after giving opportunity to all the parties to contest the matter. Needless to say that any direction passed by the lower Court should be in consonance with the provisions of the Hindu Succession Act.

With the above direction, the Appeal is disposed of and the matter is remanded to the Court below for fresh disposal of the suit in accordance with law. Miscellaneous petitions, if any, pending, shall stand closed.

Dt:13.07.2018
usd

D.V.S.S.SOMAYAJULU,J

