

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CIVIL REVISION PETITION No.1782 OF 2017

ORDER:

This Civil Revision Petition is filed under Article 227 of the Constitution of India assailing the order dated 08.11.2016 passed in I.A.No.750 of 2016 in O.S.No.182 of 2007 on the file of the Court of the Principal Junior Civil Judge at Nandigama.

2. Heard the learned counsel for both parties.

3. The point that arises for consideration is:

“Whether there is any illegality, irregularity or impropriety in the impugned order?”

4. A perusal of the record reveals that respondent Nos.1 and 2 filed O.S.No.182 of 2007 on the file of the Court of the Principal Junior Civil Judge at Nandigama against the petitioner and respondent Nos.3 to 10 for partition of the suit schedule property. After completion of evidence on both sides, the petitioner filed I.A.No.750 of 2016 seeking permission of the Court to file an additional written statement. Respondent Nos.1 and 2 filed counter *inter alia* contending that the petition is not maintainable either on facts or in law; therefore, the petition is liable to be dismissed. The trial Court, after affording a reasonable opportunity to both parties, dismissed the petition. Hence, the revision.

5. A perusal of the record reveals that the petitioner and respondents are interrelated to each other. Respondent Nos.1 and 2 filed O.S.No.182 of 2007 for partition of the suit schedule

property. It is the case of both parties that item No.1 of the suit schedule property belongs to late Tulasamma. Respondent Nos.1 and 2 have taken a specific plea in the plaint that Tulasamma died eight years prior to filing of the suit. The petitioner filed I.A.No.750 of 2016 seeking to file an additional written statement stating that Tulasamma died on 15.11.1988. The factum of death of Tulasamma is not in controversy. The legal representatives of Tulasamma are entitled for partition of her properties as per their entitlement. The date of death of Tulasamma is no way concerned with the disposal of the suit. Even if the petition is allowed, the same may not improve the case of the petitioner in any manner whatsoever. The trial Court made an observation that the petitioner filed the interlocutory application to drag on the proceedings to the maximum extent. The possibility of filing of this type of petitions to drag on the proceedings cannot be ruled out completely. While deciding the interlocutory applications, the Court has to consider the prejudice likely to be caused to the parties to the proceedings. Even if the petition is dismissed, no prejudice would be caused to the petitioner, who is defendant No.4 in the main suit. The trial Court has assigned reasons much less cogent and valid reasons to its findings. I am fully endorsing with the findings recorded by the trial Court. There is no illegality, irregularity or impropriety in the impugned order warranting interference of this Court while exercising the jurisdiction under Article 227 of the Constitution of India.

6. In the result, the Civil Revision Petition is dismissed. There shall be no order as to costs.

7. Consequently, Miscellaneous Petitions, if any, pending in this Civil Revision Petition shall stand closed.

T.SUNIL CHOWDARY, J

Date: 24.12.2018
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