

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

C.R.P.No.607 of 2016

ORDER:

This revision petition is filed under Article 227 of the Constitution of India assailing the orders dated 17.11.2015 passed in I.A.No.693 of 2015 in O.S.No.256 of 2012 on the file of VII Additional Senior Civil Judge Court, Vijayawada.

2. Heard the learned counsel appearing for both the parties.

3. A perusal of the record reveals that the first respondent filed O.S.No.256 of 2012 on the file of the VII Additional Senior Civil Judge Court, Vijayawada, against the petitioner and others seeking perpetual injunction in respect of the suit schedule property. During pendency of the suit, the first respondent filed I.A.No.693 of 2015 under Order XIII Rule 10 read with Section 151 CPC to send for original of the partition list dated 10.06.1973 in A.S.No.162 of 2010 on the file of XIII Additional District Court, Vijayawada.

4. The petitioner filed counter *inter alia* contending that the petition filed by the first respondent is not maintainable either on facts or in law.

5. The trial Court after affording a reasonable opportunity to both parties, allowed the petition. Hence, the revision.

6. The point that arises for consideration is:

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

7. The admitted facts that can be culled out from the pleadings are that the first respondent filed O.S.No.256 of 2012 against the petitioner and others seeking perpetual injunction in respect of suit schedule property. Pending suit, the first respondent filed I.A.No.693 of 2015 to send for original of the partition list dated 10.06.1973 in A.S.No.162 of 2010 which was allowed.

8. A perusal of the record reveals that the first respondent filed the certified copy of the partition list. To send for a record from some other suit or appeal is purely a discretionary relief. It is a settled principle of law this Court shall not lightly interfere with the discretionary orders passed by the Courts below unless there is an error manifest on the face of it. The Court has to consider whether allowing of such application will cause prejudice to the opposite party or not. In the instant case, even if the document is called for, no prejudice will be caused to the respondent. Both counsel advanced arguments with regard to the admissibility and other aspects of the partition list. It is needless to say the Court while disposing of interlocutory applications, should not express any opinion touching the merits of the main case. Hence, this Court is not inclined to express any opinion on the contentions raised by both parties, in view of the pendency of the 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. The trial Court has exercised its discretionary power judiciously basing on sound principles of law. There is no illegality, irregularity or impropriety in the orders of the trial Court warranting interference of this Court, while exercising the jurisdiction under Article 227 of the Constitution of India. Hence, the petition is liable to be dismissed.

9. In the result, the Civil Revision Petition is dismissed. There is no order as to costs. As a sequel, miscellaneous petitions pending, if any, shall stand closed.

Dt:28.11.2018
Rns

T.SUNIL CHOWDARY, J

