

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

CIVIL REVISION PETITION No.3099 of 2018

ORDER:

This Revision is filed under Article 227 of the Constitution of India challenging the order dt.18-01-2018 in I.A.No.15 of 2018 in O.S.No.196 of 2010 of the Additional Senior Civil Judge, Madanapalle.

2. Petitioners are defendant Nos.1 to 4, 8 and 9 in the said suit, which was filed for setting aside certain clauses in a compromise decree dt.27-07-1993 in O.S.No.22 of 1991 on the file of the Subordinate Judge, Madanapalle and for partition of the plaint schedule properties.

3. The contention of respondent Nos.1 and 2 is that item No.8 of the plaint schedule property is the property acquired by the deceased husband of the 1st respondent but purchased in the name of the mother of the petitioners by name C.Krishnamma.

4. The petitioners set up a pleading that the said C.Krishnamma herself purchased the property and also marked Ex.B-5 in support of the said pleading.

5. One of the issues framed for consideration was whether the suit is bad for non-joinder of item-8 of the plaint schedule property.

6. Thereafter trial commenced and is at the stage of examination of D.W.1, who is 8th defendant in the suit and son of C.Krishnamma.

7. After he was partly cross-examined, I.A.No.15 of 2018 was filed under Order VIII Rule 2(1) C.P.C. seeking to mark water charges demand notices and electricity consumer demand notices issued to 5th defendant-C.Krishnamma.

8. In the affidavit filed in support of the said application, it is stated merely that petitioners were advised to file additional documents in support of their contention that 5th defendant is the owner of the property.

9. The period in respect of which the notices have been issued is also not mentioned.

10. The Court below dismissed the said application stating that the documents sought to be filed have no bearing on the acquisition of the property by 5th defendant or 1st respondent's husband.

11. Assailing the same, this Revision is filed.

12. Though learned counsel for petitioners sought to contend that these documents are necessary to prove the title of deceased 5th defendant, since firstly no valid explanation is given why these documents were not filed along with the written statement, and since these demand notices sought to be filed cannot be taken as proof of title of the deceased 5th defendant, I am satisfied that the Court below was right in law in rejecting them.

13. Accordingly, the Civil Revision Petition is dismissed at the stage of admission. No costs.

14. As a sequel, the miscellaneous petitions, if any pending, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 07-06-2018

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