

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CIVIL REVISION PETITION Nos.581, 591 & 592 OF 2014

COMMON ORDER:

All these Civil Revision Petitions are filed by the revision petitioner - third party under Article 226 of the Constitution of India. C.R.P. No.581 of 2014 is filed by the revision petitioner aggrieved over the order, dated 19.09.2013, passed in I.A. No.466 of 2005 in O.S. No.282 of 1990 by the Principal Senior Civil Judge, Ranga Reddy District at L.B. Nagar, whereas, C.R.P. Nos.591 and 592 of 2014 are preferred by her aggrieved over the docket order, dated 01.10.2013, passed in I.A. Nos.980 of 2013 and 981 of 2013 in O.S. No.282 of 1990, respectively.

2. I.A. No.466 of 2005 is filed by the revision petitioner under Order XX Rule 18 of Code of Civil Procedure, 1908 (for short 'Code') to pass a final decree by determining the equities and allocate the shares in pursuance of preliminary decree in O.S. No.282 of 1990, dated 11.04.1997, more particularly, declaring her share, and the same was dismissed by the trial Court, by order, dated 19.09.2013. Whereas, I.A. No.980 of 2013 is filed under Order VIII, Rule 1(3) of the Code to permit her to file the documents mentioned in the List of Documents and mark them in exhibit 'B' Series, while I.A. No.981 of 2013 under Section 151 of the Code to reopen I.A. No.466 of 2005 for

the purpose of filing chief examination affidavit, respectively, and the same were dismissed, by order, dated 01.10.2013.

3. Heard Sri T.S. Anand, learned counsel for the revision petitioner in all these revisions.

4. The learned counsel for the petitioner would submit that the petitioner is a purchaser of part of plaint schedule properties; that the suit was decreed for partition of properties allotting respective shares to the parties, but the petitioner was not aware of filing of partition suit and she gained knowledge only after passing the preliminary decree and, therefore, she was compelled to approach the trial Court by filing I.A. No.466 of 2005 to determine the equities and allocate the shares in pursuance of the preliminary decree as mentioned in the above.

5. The trial Court has dealt with elaborately the rights of the petitioner and referred to the purport of Order XX, Rule 18 (2) of the Code. The trial Court would express that since the revision petitioner filed the application for declaration of her rights in respect of the petition schedule property by allotting her share, she is obligated with the duty to prove that her right against the petition schedule property is concluded which alone would entitle her to invoke the provisions of Order XX, Rule 18 (2) of the Code, and since the revision petitioner is claiming her right by way of an agreement of sale and by virtue of

Will, except making a pleading in the petition which was denied by the respondents, no other documents are filed to show by virtue of Will or agreement of sale, her right over the petition schedule property was concluded and, therefore, as per the provisions of Order XX, Rule 18 (2) of the Code, her share in respect of determined rights of the parties can be done. But, in the present case, the right of the revision petitioner is not determined so far. If the revision petitioner is claiming her right through Will, she has to get the Will proved and get her right determined and then only she can invoke the said provision and she has no *locus standi*, at this stage, and, therefore, dismissed the said petition.

6. Admittedly, when the revision petitioner herein claimed her right under the agreement of sale, the proprietary right was not divested from the original owner or the vendor of the revision petitioner and not vested in the revision petitioner. In such an event, certainly, it is difficult to hold that the revision petitioner can claim right and seek the relief by invoking the provisions of Order XX, Rule 18 (2) of the Code though, she claims that she could get the right under the Will. As rightly held by the trial Court, no documentary proof is forthcoming to substantiate her case. Therefore, to pass a final decree declaring her right over the petition schedule property cannot be acceded to.

7. The orders in other two applications are consequential orders and, therefore, no interference is warranted.

8. Hence, the present revisions are devoid of merit and, therefore, the same are dismissed. There shall be no order as to costs.

As a sequel thereto, miscellaneous petitions, if any, pending in these revisions, stand closed.

A. SHANKAR NARAYANA, J

April 03, 2018.
Mgr

