

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CIVIL REVISION PETITION NO.854 OF 2017

ORDER:

This Civil Revision Petition is filed under Article 227 of the Constitution of India, assailing the order, dated 03.01.2017 in I.A.No.102 of 2016 in O.S.No.125 of 2012 on the file of the Principal District Judge, Nellore.

2. Heard both the counsel.

3. The facts, leading to filing of the present revision are as follows: The petitioner-plaintiff filed O.S.No.125 of 2012 on the file of the Principal District Judge, Nellore, against the respondents for partition of the suit schedule properties. During the pendency of the suit, the petitioner filed I.A.No.102 of 2016 under Order VI Rule 17 CPC for amendment of the plaint. The respondents filed counter opposing the claim of the petitioner. The trial Court dismissed the petition after affording reasonable opportunity to both parties. Hence, this revision.

4. Now the point that arises for consideration in this revision is whether there is illegality or irregularity or impropriety in the order passed by the trial Court?

5. Initially, the petitioner's grand mother filed the suit on her behalf. During the pendency of the suit, the petitioner was declared as major. The petitioner is none other than the daughter of the 1st respondent. As per the averments made in the plaint, the suit schedule properties belong to the father of the petitioner and the husband of the 1st respondent. The 1st respondent sold the suit schedule properties in favour of the 2nd respondent under two registered sale deeds, dated 30.12.1998 and 18.06.1999.

The petitioner filed the suit for partition of the suit schedule properties. The present petition is filed for amendment of the plaint seeking the relief of cancellation of sale deeds, dated 30.12.1998 and 18.06.1999.

6. The trial Court made an observation that if ultimately, the petitioner succeeds in the suit, automatically the Court can ignore the sale deeds executed by the 1st respondent in favour of the 2nd respondent and accordingly, dismissed the petition.

7. At the time of arguments, both counsel submitted that the suit is coming up for arguments.

8. The fact remains that by the date of filing of the suit, the petitioner was a minor. Whether the sale deeds executed by the 1st respondent in favour of the 2nd respondent are binding on the petitioner or not will be decided after full-fledged trial. If this Court expresses any opinion touching the merits of the case, the same may cause prejudice to one of the parties to the proceedings. The trial Court considered the various aspects, in right perspective, and dismissed the petition. I am fully endorsing with the findings recorded by the trial Court. There is no illegality or irregularity in the order passed by the trial Court, which warrants interference of this Court.

9. Accordingly, the Civil Revision Petition is dismissed. No order as to costs. Miscellaneous petitions, if any pending, in this Civil Revision Petition shall stand closed.

T.SUNIL CHOWDARY, J

DATED: 24-08-2018.

Hsd