

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CIVIL REVISION PETITION No.4309 OF 2018

ORDER:

This Civil Revision Petition is filed under Article 227 of the Constitution of India assailing the order dated 21.07.2017 passed in I.A.No.1 of 2017 in O.S.No.433 of 2014 on the file of XI Additional Chief Judge, City Civil Court at Hyderabad.

2. Heard the learned counsel for the petitioner.

3. A perusal of the record reveals that the second respondent filed O.S.No.433 of 2014 on the file of XI Additional Chief Judge, City Civil Court at Hyderabad, against the petitioner and respondent Nos.1, 3, 4 and 5 for partition of the suit schedule properties. During pendency of the suit, the first respondent/defendant No.2 filed I.A.No.1 of 2017 seeking leave of the Court to file an additional written statement. The petitioner filed counter opposing the claim of the first respondent. The trial Court, after affording a reasonable opportunity to both parties, allowed the petition. Hence, the revision.

4. It is needless to say that in a suit for partition, the plaintiff has to establish his/her right over the suit schedule property. The parties to the proceedings belong to one family. Originally the suit schedule properties belong to Md.Sibgatullah. The plaintiff is the daughter of Md.Sibgatullah.

5. It is the case of the first respondent/defendant No.2 that the petitioner, who is defendant No.3, purchased some properties with the income of joint family property. Whether the petitioner

purchased the proposed properties with joint family property or not has to be decided at the time of full-fledged trial only. Mere permitting the first respondent to file the additional written statement would not amount to accepting his contention. It is needless to say that the burden of proof lies on the first respondent to establish the stand taken by him. Even if the petition is allowed, no prejudice will be caused to the petitioner. The trial Court considered the material available on record in right perspective and allowed the petition. I am fully endorsing with the findings recorded by the trial Court. There is no illegality, irregularity or impropriety in the order of the trial Court 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: 27.07.2018
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