

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CIVIL REVISION PETITION No.4830 OF 2018

ORDER:

This Civil Revision Petition is filed by the petitioners/plaintiffs, questioning the order dated 10.07.2018, passed by the IV Additional Junior Civil Judge, Rajahmundry, East Godavari District, in I.A.No.161 of 2018 in O.S.No.739 of 2011, wherein the application filed by the petitioners/plaintiffs, under Order XI Rule 14 and Section 151 of C.P.C, seeking to direct the defendants and D.W.1, to produce the will executed by the father of the defendants in favour of the defendants, with regard to the schedule property, was returned.

Heard both sides.

The case of the petitioners is that they are the plaintiffs in the above said suit and it came to be filed for grant of permanent injunction against the respondents-defendants from interfering with the peaceful possession and enjoyment with regard to the suit schedule property until the petitioners-plaintiffs are evicted under due process of law. During the course of trial, D.W.1 in his evidence stated that the father of the defendants executed a will in favour of the defendants and it is under the custody of the defendants and as such the impugned application came to be filed to direct the respondents-defendants, to produce the same.

A counter came to be filed by the respondents-defendants, denying the averments made by the petitioners. It is further stated in the counter that the impugned application was filed only with an intention to prolong the litigation. It is also stated that previously the petitioners filed a memo seeking the very same relief, i.e production of the alleged document under Order XII Rule

8 C.P.C. After hearing both parties, the Court below closed the said memo observing that as the 2nd respondent-defendant and D.W.1 J. Madhu Babu asserted that the alleged will is not in their possession and custody, there cannot be any chance of producing the same. Reiterating the submissions made in the impugned I.A, it is pleaded that the defendants are not in possession of the alleged document. Basing on the averments in the impugned application and averments in the counter, the court below rejected the application. Challenging the same, the present civil revision petition came to be filed.

As seen from the record, it is clear that though the plea of the petitioners appears to be that the will is in the custody of the defendants, nowhere, it is stated in the affidavit filed in support of the I.A, that as to how the alleged will, will be helpful for the purpose of deciding the injunction suit. Further, the suit is of the year 2011 and when the matter was posted for arguments, the present application came to be filed only with an intention to delay the proceedings. Apart from that, the material placed on record shows that a memo came to be filed with the very same relief, which was rejected earlier. In the circumstances, I see no reasons to interfere with the impugned order.

Accordingly, the Civil Revision Petition is dismissed. There shall be no order as to costs. Miscellaneous Petitions, if any pending in this revision, shall stand closed.

C. PRAVEEN KUMAR,J

Date:07.09.2018.
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