

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

CIVIL REVISION PETITION No.6197 OF 2017

ORDER :

This Civil Revision Petition is filed against order dated 11.11.2016 in I.A.No.1119 of 2016 in O.S.No.68 of 2013, wherein and whereby the Court below allowed the application filed by the petitioners/plaintiffs/respondents 2 and 3 herein under Order XXII Rule 3 read with Section 94 and 151 of CPC r/w Section 29 of A.P.Civil Rules of Practice, to bring them on record as legal representatives of 1st respondent/1st plaintiff basing on Will dated 11.02.2016.

Learned counsel for the petitioner/1st defendant submits that unless the Will dated 11.02.2016 executed by the 1st respondent in favour of respondents 2 and 3 is proved, the respondents 2 and 3 cannot be brought on record as legal representatives of 1st respondent. The revision petitioner filed counter affidavit before the Court below disputing the Will dated 11.02.2016, in spite of the same, the Court below erroneously allowed the application filed by the respondents 2 and 3. She would further contend that the mother of the respondents 2 and 3 i.e., 1st respondent is not in fit condition to execute the Will in favour of the respondents 2 and 3, as such, the Court below ought to have dismissed the application.

On the other hand, Sri M.V.Suresh, learned counsel appearing for the respondents 2 and 3 submits that even for proving the Will dated 11.02.2016 executed by the 1st respondent

in favour of respondents 2 and 3, the respondents 2 and 3 have to be brought on record.

In this case, it is to be seen that the Will dated 11.02.2016 said to have been executed by the 1st respondent in favour of respondents 2 and 3 is disputed by the revision petitioner. The Court below while allowing the application filed by the respondents 2 and 3, ought to have made a conditional order stating that they are brought on record only for the purpose of pursuing the suit filed by the 1st respondent, instead of allowing the same, as prayed for.

In view of the same, the order of the Court below is modified to the effect that the application filed by the respondents 2 and 3 is allowed only for the purpose pursuing the suit filed by the 1st respondent and their right to entitlement will depend upon their proving of Will dated 11.02.2016, during the course of trial by the Court below. Since the suit is of the year 2013, it goes without saying that the Court below shall dispose of the same as expeditiously as possible.

With the above direction, this Civil Revision Petition is disposed of. There shall be no order as to costs. As a sequel thereto, miscellaneous petitions, if any, pending shall stand disposed of.

A.RAJASHEKER REDDY, J

12-03-2018
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