

THE HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

CIVIL REVISION PETITION No.5588 OF 2017

ORDER:

This civil revision petition is filed by the petitioners-defendant Nos.3, 4 and 7 under Article 227 of the Constitution of India, challenging the order dated 31.8.2017 in I.A. No.954 of 2017 in O.S.No.103 of 2011 on the file of the Court of Senior Civil Judge, Narsapuram, West Godavari District.

2. Heard the learned counsel for both the parties.

3. A perusal of the record reveals that the first respondent herein filed O.S.No.103 of 2011 on the file of the Court of Senior Civil Judge, Narsapuram, against the petitioners and respondent Nos.2 to 11 for partition of item Nos.1 to 8 of the suit schedule property. The plaintiff and defendant Nos.2 to 8 are the children of first defendant-Karicherla Surya Kantham. During the pendency of the suit, the first defendant died. After death of first defendant, the first respondent-plaintiff filed I.A.No.954 of 2017 under Order VI Rule 17 of CPC for amendment of the plaint to include item Nos.9 and 10 in the suit schedule property. The petitioners filed counter opposing the petition. Basing on the material available on record, the trial Court allowed the petition.

4. It is the contention of the learned counsel for the first respondent-plaintiff that item Nos.9 and 10 of suit schedule property belongs to joint family. On the other hand, it is the contention of learned counsel for the petitioners-defendant Nos.3, 4 and 7 that item Nos.9 and 10 are the self-acquired properties of their father-Narayana Murthy, who executed Will dated 17.2.2001

bequeathing the said properties in favour of first defendant. Whether the property covered under the Will dated 17.2.1991 is self-acquired property of Narayana Murthy or the ancestral property will be decided during the course of trial only.

5. At the time of arguments, learned counsel for the first respondent submitted that the petitioners herein have filed additional written statement also.

6. While deciding the applications of this nature, the Court shall not express any opinion touching the merits of the main case; therefore, this Court is not inclined to express any opinion with regard to the nature of the property covered under the Will dated 17.2.1991. However, while disposing of the applications of this nature, the Court has to consider the prejudice likely to be caused to the parties to the proceedings. In the instant case, even if the petition is allowed, the same may not cause any prejudice to the petitioners-defendants. The trial Court considered the material available on record in right perspective and allowed the petition. I am fully endorsing the findings recorded by the trial Court. There is no illegality or irregularity in the order passed by the trial Court warranting interference of this Court.

7. Hence, the civil revision petition is dismissed. Miscellaneous petitions if any pending in this petition shall stand closed.

T.SUNIL CHOWDARY, J.

Date: 25.6.2018
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