

HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

C.R.P. No.5722 OF 2017

ORDER:

This petition is filed under Article 227 of the Constitution of India questioning the order dated 03.08.2017 passed in I.A.No.281 of 2017 in O.S.No.88 of 2017 by the Junior Civil Judge, Koilkuntla.

Respondents 1 and 2 filed suit under Section 91 C.P.C. along with the petition seeking leave of the Court to file suit, which is pre-requisite in view of Section 91(1)(b) C.P.C. But the Court passed a cryptic order which reads as under:

“Heard the petitioners. Perused the contents of petition and averments made in the plaint.

In the result, petition is allowed in the interest of the justice and the permission is accorded to the petitioner to continue the suit.”

The impugned order is questioned on the ground that the Court below did not record any reason for grant of leave to sue under Section 91 C.P.C. as required under Section 91(1)(b) C.P.C.

During hearing, learned counsel for the petitioners reiterated the contentions of the petitioners, whereas, learned counsel for respondents supported the impugned order.

The petitioners sought permission under Section 91(1)(b) C.P.C to sue, though respondents did not suffer any special damage, but only filed the suit to protect the property i.e Gramakantam land, where the petitioners allegedly trespassed in to the land. The impugned order is cryptic and bereft of reasons for grant of leave to sue. Therefore, the impugned order is set aside.

In the result, the civil revision petition is allowed setting aside the order dated 03.08.2017 passed in I.A.No.281 of 2017 in O.S.No.88 of 2017 by the Junior Civil Judge, Koilkuntla and remanded to the Court below to pass appropriate reasoned order in accordance with law within a month from the date of receipt of copy of this order.

Pending miscellaneous petitions in the petition, if any, shall stand closed.

M.SATYANARAYANA MURTHY,J

24.10.2018

Note: issue c.c. in three days

b/o

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