

THE HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

CIVIL REVISION PETITION No.6722 of 2017

ORDER:

1 This petition is filed under Article 227 of the Constitution of India, challenging the order dated 11.10.2017 passed in I.A.No.627 of 2016 in O.S.No.374 of 2016 on the file of the Court of the Principal Junior Civil Judge, Mangalagiri.

2 Heard the learned counsel for both the parties.

3 A perusal of the record reveals that the petitioners filed O.S.No.374 of 2016 on the file of the Court of the Principal Junior Civil Judge, Mangalagiri against the respondents for partition of the suit schedule property into three equal shares and allot two shares to the petitioners and one share to the second respondent by metes and bounds and mesne profits. During the pendency of the suit, the petitioners filed I.A.No.627 of 2016 under Order VI Rule 17 CPC seeking amendment of the plaint. The respondents filed counter *inter alia* contending that the petition is not maintainable either on facts or in law. The trial court, after affording a reasonable opportunity to both parties, dismissed the petition. Hence the present Civil Revision Petition.

4 The point for consideration is whether there is any irregularity, illegality or impropriety in the impugned order?

5 It is not in dispute that the parties are interrelated to each other. Before commencement of the trial the petitioners filed I.A.No.627 of 2016 under Order VI Rule 17 CPC.

6 The simple question involved is whether the petitioners are entitled to delete the words that the husband of the first petitioner was an employee in the year 1972 as mentioned in para No.9 of the plaint.

7 Whether the husband of the first petitioner was a minor or not has to be decided at the time of full fledged trial. It is needless to say that while disposing of Interlocutory Applications the court shall not express any opinion touching the merits of the main case. The trial court without considering the prejudice likely to be caused to the petitioners dismissed the petition on erroneous and untenable grounds. If the petition is not allowed, it may cause untold hardship to the petitioners. On the other hand, even if the petition is allowed, the same may not cause any prejudice to the respondents.

8 Taking into consideration the facts and circumstances of the case, this court is of the considered view that the Civil Revision Petition deserves to be allowed.

9 In the result, the Civil Revision Petition is allowed, setting aside the order dated 11.10.2017 passed in I.A.No.627 of 2016 in O.S.No.374 of 2016 on the file of the Court of the Principal Junior Civil Judge, Mangalagiri. Consequently, I.A.No.627 of 2016 is allowed permitting the petitioners to delete the words “Sambasiva Rao @ Sambaiah was an employee in 1972” in para No.9 of the plaint only. No costs. As a sequel, miscellaneous petitions, if any, pending in this Civil Revision Petition shall stand closed.

Date: 13.12.2018
Kvsn

T. SUNIL CHOWDARY, J