

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

C.R.P.No.6630 of 2017

ORDER:

This Civil Revision Petition is filed under Article 227 of the Constitution of India assailing the order dated 31.07.2017 passed in I.A.No.723 of 2017 in O.S.No.52 of 2013 on the file of the Court of Motor Accidents Claims Tribunal-cum-VIII Additional District Judge, Nizamabad.

2. A perusal of the record reveals that the petitioners herein have filed O.S.No.52 of 2013 against the respondents, who are the defendants, seeking partition of the suit schedule property. After examination of P.W.1, the matter was posted to 19.06.2017 for petitioners/plaintiffs side further evidence. The trial Court closed the plaintiffs' side evidence on 19.06.2017 itself as the petitioners/plaintiffs have not produced any witness. While things stood thus, the petitioners/plaintiffs have filed a petition under Section 151 CPC to reopen the plaintiffs' side evidence. The respondents did not choose to file counter. The trial Court dismissed the petition. Hence, the revision.

3. Now, the point that arises for consideration is whether there is any illegality, irregularity or impropriety in the orders of the trial Court?

4. The petitioners have filed O.S.No.52 of 2013 on the file of the Motor Accidents Claims Tribunal-cum-VIII Additional District Judge, Nizamabad, for partition of the suit schedule

property. The petitioners and respondents belong to one family. For one reason or other, the petitioners did not produce the witness on 19.06.2017. The trial Court closed the plaintiffs' side evidence. It is needless to say that the Court has to give a reasonable time for the parties to produce the evidence. If no opportunity is given to the petitioners, it may not be possible for them to put forth their stand. Even if the petition is allowed, it would not cause any prejudice to the respondents. While deciding the petitions of this nature, the approach of the Court shall be pragmatic but not pedantic. Taking into consideration the inter-se relationship between the parties and the nature of the suit, this Court is of the considered view that it is a fit case to allow the petition. Accordingly, point is answered.

5. In the result, the Civil Revision Petition is allowed setting aside the order dated 31.07.2017 in I.A.No.723 of 2017 in O.S.No.52 of 2013 on the file of the Motor Accidents Claims Tribunal-cum-VIII Additional District Judge, Nizamabad. Consequently, I.A.No.723 of 2017 in O.S.No.52 of 2013 is allowed by reopening the evidence on plaintiffs' side. If the plaintiffs fail to cooperate for the progress of the trial, the trial Court is at liberty to proceed in accordance with law. As a sequel, miscellaneous petitions pending, if any, shall stand closed.

T.SUNIL CHOWDARY, J

Dt:07.09.2018
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