

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

CIVIL REVISION PETITION No.7493 of 2017

ORDER:

The petitioner is plaintiff No.3 in O.S.No.227 of 2005 on the file of Junior Civil Judge, Atmakur. The said suit was filed for partition against respondents 1 to 5 herein. Respondents 6 to 9 are other plaintiffs and they were given up in the present Civil Revision Petition. When the petitioner herein along with other plaintiffs filed I.A.No.421 of 2010 seeking amendment of plaint to declare their title in addition to partition of plaint schedule property, the said application was dismissed by the learned Junior Civil Judge, Atmakur on 24.10.2017. Challenging the same, the present Civil Revision Petition is filed.

2. The affidavit filed in support of the application simply states that if the application is allowed, no prejudice would be caused to other side if their defences are *bona fide*. It is further stated that the application was filed only to avoid multiplicity of proceedings. The main reason appears to be pendency of execution proceedings in E.P.No.86 of 2001 in O.S.No.81 of 1997 in respect of schedule property.

3. A counter-affidavit was filed by the 5th respondent stating that the petition was filed only to drag on the proceedings. It is further stated that a preliminary decree was passed on 11.8.2000 and a final decree was passed on 18.09.2001. Thereafter, only the 2nd respondent filed E.P. and brought the suit lands for sale. The petitioner filed claim petition in E.A.No.102 of 2002 and it was dismissed for default on 27.04.2004. The application for

restoration was also dismissed. Thus, the petitioner is not entitled for amendment of plaint introducing a new plea changing the nature of the suit.

4. The suit is of the year 2005 and filed for partition. Now, the plaintiffs want to amend the plaint by adding the relief of declaration of title, which is inconsistent, in a suit for partition. A suit for partition presupposes a right in the property. Though this Court is not satisfied with the reasoning given by learned Junior Civil Judge, Atmakur, in the facts and circumstances of the case, this Court feels that the application deserves to be dismissed as this Court does not find any reason to interfere with the impugned order.

5. Accordingly, the Civil Revision Petition is dismissed. However, this order will not prevent the plaintiffs from taking appropriate proceedings in accordance with law.

Miscellaneous petitions, if any, pending in this civil revision petition shall stand closed. There shall be no order as to costs.

A.RAMALINGESWARA RAO, J

MARCH 19, 2018
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Date:19.03.2018

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