

THE HON'BLE Dr.JUSTICE SHAMEEM AKTHER

APPEAL SUIT No.446 OF 2019

JUDGMENT:

This appeal, under Section 96 of CPC is filed by the appellant/claim petitioner/third party, challenging the order dated 25.07.2019 passed in unnumbered E.A.(SR) No.1386 of 2019 in E.P.No.2 of 2014 by the learned III Additional District and Sessions Judge, Karimnagar.

2) Heard the learned counsel for both sides and perused the record.

3) Learned counsel for the appellant/third party contended that when an application is filed under Order 21 Rules 97 to 101 CPC, the Court has to assign the regular number and deal with it in accordance with the procedure established under law. Without advertng to it, the Court below erroneously rejected the impugned application and ultimately prayed to set aside the impugned order and allow the appeal as prayed for.

4) On the other hand, learned counsel for the respondent No.10/Decree Holder supported the order under challenge and prayed to dismiss the appeal.

5) As per the material placed on record, the E.A. (SR) No.1386 of 2019 in E.P.No.2 of 2014 was filed under Order 21 Rules 97 to 101 CPC. The appellant/third party is claiming substantial interest in the subject matter of the suit, such as title etc., through a registered partition deed, said to have been executed between his

ancestors. Order 21 Rule 97 to 101 CPC deals with the third party claims etc,. So the subject matter of the appeal requires adjudication in terms of Order 21 Rule 97 to 101 CPC.

6) Under these circumstances, the Court below ought not have rejected the impugned application. The Court below ought to have assigned the regular number to the third party claim petition and dealt with it in accordance with the procedure established under law. Therefore, the impugned order dated 25.07.2019 passed in E.A (SR) No.1386 of 2019 in E.P.No.2 of 2014 by the learned III Additional District and Sessions Judge, Karimnagar, is set aside and the Court below is directed to assign regular E.A. number to the subject proceedings and dispose of the same in accordance with the procedure established under law.

7) Accordingly, the appeal is ordered. No order as to costs.

Miscellaneous Petitions, if any, shall stand closed. No order as to costs.

Dr. SHAMEEM AKTHER, J

Date: 06.11.2019

Note:

The Registry is directed to return the material papers submitted by the learned counsel for the appellant for representation before the Court below, forthwith.

(b/o)
scs