

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

CIVIL REVISION PETITION No.110 of 2020

ORDER:

This Civil Revision Petition is filed against order dated 21.12.2019 in I.A.No.1137 of 2019 in OS No.867 of 2008, wherein the application filed by the petitioners under Order VI Rule 17 of CPC r/w Rule 28 of the Telangana Civil Rules of Practice and Circular Orders, 1980 for amending the plaint by including the B to D petition schedule properties was dismissed.

Heard learned counsel for the petitioners and learned counsel for the 2nd respondent.

Learned counsel for the petitioners submits that since the 2nd respondent is not having interest in the B, C & D schedule properties, he should not have any objection for inclusion of the said properties in the schedule of properties. He also submits that since the petitioners were minors at the time of filing of the suit, they were not aware of the properties owned by his father i.e., B, C and D schedule properties, as such, the same is not included in the plaint schedule property. He also submits that the partial partition of the properties is not maintainable and the petitioners became aware of the subject properties, as such the application i.e., IA No.1137 of 2019 is filed for inclusion of the same. He also submits that the Courts should be liberal in allowing the amendment application and same can be made at any stage of the suit.

On the other hand, learned counsel for the 2nd respondent submits that the petitioners and the 1st respondent sold part of the B schedule property on 08.01.2019, which goes to show that there is no dispute among themselves and this application is filed on 18.10.2019. He submits that the trial Court rightly found that the application is belated, as such, no interference is called for.

A perusal of the cause title in the plaint filed along with the material papers goes to show that the 1st and 2nd petitioners are not minors at the time of filing of the suit. It is also borne out by record that the petitioners and the 1st respondent sold part of 'B' schedule property on 08.01.2019, which goes to show that the petitioners have knowledge about existence of such properties. The Court below also observed that even the petitioners are aware of the existence of the properties i.e., 'B', 'C' and 'D' schedule properties, filed this petition belatedly and the said finding is based on record coupled with the document i.e., sale deed executed on 08.01.2019. Even in the affidavit filed in support of the application, nothing is stated except stating that the petitioners are minors at the time of filing of the suit. Even in the cause title of this petition also goes to show that as on today, all the petitioners are majors i.e., aged about 30, 24 and 28 years, which also goes to show that they are all majors. Even after attaining the age of majority, they filed the application on 18.10.2019, which shows that the application before the Court below is filed only to drag on the proceedings, as rightly pointed out by the trial Court.

No doubt, amendment application should be liberally considered, but the latches on the part of the applicants should also be considered by the Court below in entertaining such applications. The Court below also relied on the judgment in the case of South Konkan Distilleries v.Prabhakar Gajanan Naik [2008 Law Suit (SC) 1369, dismissed the application.

In view of above facts and circumstances, I do not see any reason to entertain this petition by invoking extraordinary jurisdiction under Article 227 of the Constitution of India.

Accordingly, Civil Revision Petition is dismissed. There shall be no order as to costs. Consequently, miscellaneous petitions, if any, pending in this Civil Revision Petition shall stand closed.

A.RAJASHEKER REDDY,J

24.01.2020
kvs

¹HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

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Date: 24.01.2020

kvs
