

HON'BLE SMT.JUSTICE G. ANUPAMA CHAKRAVARTHY

SECOND APPEAL NO.57 of 2012

JUDGMENT:

The present Second Appeal is filed by the unsuccessful plaintiff against the judgment and decree dated 10.06.2011 in A.S.No.22 of 2007 on the file of Principal District Judge, Ranga Reddy District at L.B.Nagar, dismissing the appeal, confirming the judgment and decree dated 30.10.2006 in O.S.No. 120 of 2006 on the file of Junior Civil Judge, Ranga Reddy District at Ibrahimpatnam.

2. The original suit was filed by the plaintiff against the defendants for partition and separate possession duly dividing the suit schedule property into four equal shares, with metes and bounds, and for allotment and separate possession of 1/4th share to the plaintiff out of suit schedule property and to award costs. Plaintiff is the appellant

3. During the course of trial, on behalf of the plaintiff PW.1 was examined and Exs.A1 to A7 were marked. No evidence was adduced by the defendants as they remained *ex parte*.

4. Considering the oral and documentary evidence on record, the trial court dismissed the suit with a finding that absolutely no material is placed by the plaintiff to establish that he is the joint owner and possessor of suit schedule land along with defendants 1 to 3, and as such, the plaintiff is not entitled for 1/4th share in the suit schedule land.

5. Being aggrieved by the judgment of the trial court the plaintiff has filed appeal vide A.S.No.22 of 2007 and the first-appellate Court, after considering the oral and documentary evidence on record and also rival contentions made by both the parties, dismissed the appeal, confirming the judgment of the trial court.

6. Being aggrieved by the judgment and decree passed by the first appellate court, the present appeal is filed by the appellant/plaintiff, raising the substantial questions of law, which are as under:

- (a) Whether once existence of joint family was in dispute necessarily the property held by the family assumed the

character of co-person every member of the family would be entitled by birth to a share in such property?

- (b) Whether the possession by one co-owner is not by itself the possession of other co-owner?
- (c) Whether separate possession of portion of property is it a presumption of property?
- (d) Whether non-mentioning of the name of the co-person in revenue record is disentitled for partition?

7. Heard the learned Counsel for the appellant.

8. On perusal of the substantial questions of law raised by the appellant, it is evident that they all relate to concurrent findings of fact by both the courts below, but not on law. The scope of Section 100 of Civil Procedure Code is very limited, and the High Courts can only interfere in the judgment of the courts below, if any substantial question of law is involved. In the absence of any substantial question of law the second appeal is also liable to be dismissed.

9. Accordingly, this Second Appeal is dismissed, at the stage of admission, as devoid of merit, confirming the judgment dated 10.06.2011 in A.S.No.22 of 2007 on the file of Principal District Judge, Ranga Reddy District at L.B.Nagar. There shall be no order as to costs.

Miscellaneous petitions, if any, pending, shall stand closed.

G.ANUPAMA CHAKRAVARTHY,J

19.09.2022

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