

APHC010588322014



IN THE HIGH COURT OF ANDHRA PRADESH :: AMARAVATI
(SPECIAL ORIGINAL JURISDICTION)

WEDNESDAY, THE TWENTY EIGHTH DAY OF JANUARY
TWO THOUSAND AND TWENTY SIX

3459

PRESENT

THE HON'BLE SMT. JUSTICE SUMATHI JAGADAM

CIVIL MISCELLANEOUS APPEAL No.175 OF 2014

Between:

Mathamsetti Satyavathi Bhramaramba
and 2 others.

Appellants

and

Varada Satya Rajan and 13 others. ---

Respondents

Counsel for the Appellants : Sri T.G.S. Srivatsava

Counsel for the Respondents : Sri M.V. Suresh

The Court made the following:

JUDGMENT:

Original Suit No. 232 of 1992 on the file of the Court of Additional Senior Civil Judge, Rajahmundry was filed by Varada Kasi Viswanadhan against Varada Satya Rajan and 10 others, for partition of plaint 'A' & 'B' schedule properties, seeking 1/3rd share therein and for mesne profits. On 27.04.2001, the said Suit was decreed declaring that the plaintiff and defendant Nos. 1, 2 and 5 to 7 are entitled to 9/56th undivided share each in all the plaint A and written statement A & B schedule properties.

2. Aggrieved by the decree and judgment, dated 27.04.2001, passed in O.S. No. 232 of 1992 by the learned Additional Senior Civil Judge, Rajahmundry, the plaintiff therein preferred Appeal Suit No. 90 of 2001 on the file of the Court of V Additional District Judge (FTC), East Godavari, Rajahmundry, and subsequently he withdrew it. In the same case, defendant Nos. 1 and 2 filed cross-objections. The learned Additional District Judge upheld the cross-objections in A.S. No. 90 of 2001, leading to the remand of O.S. No. 232 of 1992 to the trial Court for fresh disposal after considering the documents filed by the cross-objectors. Additionally, the trial court was directed to determine the validity of Ex.B-10, which would form the basis for the allotment of shares.

3. Further aggrieved, respondent Nos. 3, 4 & 6 in Cross-Objections in A.S. No. 90 of 2001 filed the present Civil Miscellaneous Appeal under Order XLIII Rule 1 of the Civil Procedure Code, 1908 (for short, 'the CPC'), challenging the

judgment dated 13.04.2007 passed in Cross-Objections in A.S. No. 90 of 2001 by the learned V Additional District Judge (FTC), East Godavari, Rajahmundry.

4. This Court has initially granted *an interim* stay of the impugned judgment, and the stay has been extended from time to time.

5. Heard the learned counsel for the appellants and the respondents.

6. During the course of the hearing, learned counsel for the appellants and learned counsel for the respondents/cross-objectors fairly submitted that the trial Court should be directed to dispose of the suit in O.S. No. 232 of 1992, on the file of the Court of Additional Senior Civil Judge, Rajahmundry, within a specified timeframe.

7. Recording the aforementioned submission, without examining the merits of the case, the Civil Miscellaneous Appeal is thus disposed of by directing the learned Additional Senior Civil Judge, Rajahmundry, to reconsider the documents filed by the respondents/cross-objectors and to decide the Suit in O.S. No. 232 of 1992, anew, as early as possible, but not later than six months from the date of receipt of a copy of this judgment, considering the Suit dates back to 1992. No order regarding costs.

As a sequel, miscellaneous applications pending, if any, shall stand closed.

JUSTICE SUMATHI JAGADAM