

(2014) 01 KAR CK 0249

In the Karnataka High Court

Case No : Writ Petition No. 49871 of 2013 (GM-CPC)

M. Bhaskar

APPELLANT

Vs

Smt. Veena, Smt. Dr. M. Mayadevi, Sri. C.M. Gowda and Sri.
M. Balaji

RESPONDENT

Date of Decision : 16-01-2014

Acts Referred:

Constitution of India, 1950 — Article 226 227

Citation : (2014) 01 KAR CK 0249

Hon'ble Judges : H. Billappa, J

Bench : Single Bench

Advocate : Sanjay Gowda N.S, for the Appellant; Aswathnarayana Reddy for R1 and R2, Sri. K. Narayanaswamy for R4, for the Respondent

Final Decision : Dismissed

Judgement

H. Billappa, J.—In this writ petition under Articles 226 and 227 of the Constitution of India, the petitioner has called in question, the order dated 1-10-2013, passed by the trial court in O.S. No. 6423/2009 on I.A. 20 vide Annexure-G. By the impugned order at Annexure-G, the trial court has allowed I.A. No. 20 and permitted the respondents-1 and 2 to file their reply/rejoinder to the written statement.

2. Aggrieved by that, the petitioner has filed this writ petition.

3. Briefly stated the facts are:

The respondents 1 and 2 have filed suit in O.S. No. 6423/2009 for partition and separate possession of the suit schedule properties. In the said suit, the petitioner has filed his written statement contending that the plaintiffs i.e., the respondents 1 and 2 are not entitled for any share in the suit schedule properties and also has claimed share in the written statement schedule properties. Therefore, the respondents 1 and 2 have filed application praying to permit them to file their reply/rejoinder to the written statement filed by the petitioner. The

trial court by its order dated 1-10-2013 has allowed the application. Therefore, this writ petition.

4. The learned counsel for the petitioner contended that the impugned order cannot be sustained in law. He also submitted that the claim made by the petitioner in the written statement does not amount to counter claim and therefore, the trial court was not justified in allowing the application. He also submitted that some properties were left out and the petitioner has included them in the written statement and therefore it does not amount to counter claim. He therefore submitted that the impugned order cannot be sustained in law. He placed reliance on the decision of this Court reported in Mr. Glen Fredric Picardo Vs. Mr. Rodney Picardo since deceased by L.Rs, .

5. As against this, the learned counsel for respondents 1 and 2 submitted that the impugned order does not call for interference. He also submitted that the petitioner has filed his written statement making counter claim in respect of the written statement schedule properties and therefore, the trial court has allowed the application and therefore, the impugned order does not call for interference.

6. I have carefully considered the submissions made by the learned counsel for the parties.

7. The point that arises for my consideration is, Whether the impugned order calls for interference?

It is relevant to note, the suit is for partition and separate possession of the suit schedule properties. The petitioner has filed his written statement contending that the respondents 1 and 2 are not entitled for any share in the suit schedule properties. In addition to that, the petitioner has claimed share in the written statement schedule properties. Written statement schedule properties are not part of the suit schedule properties. They are separate properties. The claim made by the petitioner in respect of the written statement schedule properties amounts to counter claim. Therefore, the trial court has allowed the application and permitted the respondents 1 and 2 to file their reply/rejoinder to the counter claim made by the petitioner in the written statement. Therefore, the impugned order does not call for interference. There is no merit in this writ petition and therefore, it is liable to be dismissed. Accordingly, the writ petition is dismissed.