
(2013) 08 AP CK 0002
In the Andhra Pradesh High Court
Case No : C.M.A. No. 572 of 2011

Paladugu Nagamani

APPELLANT

Vs

Madala Rama Rao

RESPONDENT

Date of Decision : 16-08-2013

Acts Referred:

Citation : (2014) 3 ALT 193

Final Decision : Disposed Off

Judgement

L. Narasimha Reddy, J.—The appellant herein presented a plaint in the Court of the XI Additional District Judge, Krishna at Gudivada against her father, the 1st respondent, and her sister, the 2nd respondent, for the relief of partition and separate possession of the suit schedule property. She claimed half share in item Nos. 1 to 6 in the suit schedule property. The trial Court returned the plaint, through order, dated 30.05.2011, observing that the appellant is not entitled to half share. That was preceded by several returns and re-presentations. The appellant challenges the order passed by the trial Court. Heard Sri P.S.P. Suresh Kumar, learned counsel for the appellant, and Sri V.R. Avula, learned counsel for the respondents.

2. The suit was filed for the relief of partition and separate possession of the suit schedule property; by the appellant against her father and sister. She claimed half share in the suit schedule property. The basis was also indicated. That claim, however, is subject to adjudication by the trial Court, after taking into account the respective contentions and evidence that may be adduced by the parties. The cryptic order passed by the trial Court, while returning the plaint, resembles the one of recording a finding on the entitlement of the appellant, once for all. Even if the appellant is not entitled to half share, that cannot be a ground to return the plaint. The order under appeal has the effect of pre-judging the issue.

3. Hence, the appeal is allowed and the order under appeal is set aside. The trial Court shall number the suit, if proper Court fee is paid, and proceed to decide the matter on merits. There shall be no order as to costs. The miscellaneous

petition filed in this appeal shall also stand disposed of.