

HIGH COURT OF ANDHRA PRADESH : AMARAVATHI

MAIN CASE No.: Second Appeal No.190 of 2023

PROCEEDING SHEET

Sl. No	DATE	ORDER	OFFIC E NOTE
1	24.04.2023	<u>Dr.VRKS,J</u> This matter has been coming up for hearing before admission. The dispute among the family members is about partition of properties. Considering the submissions of the learned counsel and the material on record, the questions revolves around the allegations and counter allegations of oral partition earlier to the appointed day in the year of 2004 prescribed in Hindu Succession Act and as to whether earlier partition was required to be only by a Registered deed, or by oral partition in terms of Section 6 (1) the learned first appellate court recorded an observation that when a oral partition earlier to 20.12.2004 is to be acted upon, learned counsel submits that the oral partition employed therein is explained at the end of the section, referring only to a Registered partition or a decree of a court. The following substantial questions of law arise:	

		(i) Whether in facts and circumstances of the case, the appellate court below mis-interpreted, the explanation to section 6(1) of Hindu Succession Amendment Act, 2005 and went wrong in observing that any partition prior to 20.12.2004 including orally made partition was valid, by ignoring explanation to section 6(5) of the said act which stipulates the nature of effective partition? (ii) Whether in facts and circumstances of the case, the appellate court below wrongly applied section 30 of Hindu Succession Act, 1956, by holding that coparcener could make a testamentary disposition of 'his interest' in the property, which also lays down that he could only bequeath his interest in the property but cannot make disposition of entire ancestral property in which the other coparceners also have interest? (iii) Whether in facts and circumstances of the case, the appellate court below failed to consider the settled proposition of the honourable apex court while interpreting section 6 of Hindu Succession Amendment Act, 2005, that daughters becomes coparceners by birth, that father need not be alive by the date of amendment and that effective partition prior to 20-12-2004 should have been by way of registered deed or by way of a court's decree, which the appellate court missed to observe and such there was no proper adjudication in the present suit for partition?	
--	--	--	--

		Admit. Appellants are to take out personal notices to respondents and file proof of service. List the matter after vacation. _____ Dr.VRKS,J <u>I.A.No.01 of 2023</u> This application seeks for temporary injunction restraining the respondents from alienating the disputed properties pending this second appeal. Today second appeal is admitted on substantial questions of law. Any alienations would multiply the proceedings. It is in these circumstances, exparte order is made restraining the respondents from encumbering or alienating the case disputed properties till the next date of hearing. Appellants are to take out personal notice to respondents. List the matter after vacation. _____ Dr.VRKS,J GRL	
--	--	--	--

--	--	--	--
