

THE HON'BLE SRI JUSTICE SANJAY KUMAR

CIVIL REVISION PETITION NO.5078 OF 2013

DATED 20th MARCH, 2015

Between:

Vemula Markhandeya

.. Petitioner

and

Gullapalli Sagar (died) and another

.. Respondents

THE HON'BLE SRI JUSTICE SANJAY KUMAR

CIVIL REVISION PETITION NO.5078 OF 2013

ORDER

The plaintiff in O.S.No.298 of 2004 on the file of the learned Principal Junior Civil Judge, Warangal, is before this Court aggrieved by the order dated 26.11.2013 passed therein, accepting the objection raised by the defendant in the suit and refusing to receive the document produced by him.

Perusal of the docket order dated 26.11.2013 passed by the learned Principal Junior Civil Judge, Warangal, reflects that during the cross-examination of D.W.2 by the plaintiff, he was sought to be confronted with a layout map and the learned counsel for the defendant objected thereto. The Court below was of the opinion that the layout map was a photocopy which was attested by the Assistant Secretary and the Sarpanch of Gopalapuram Gram Panchayat. The Court below also found that the said document did not have any layout plan number and held that as it was only a photocopy, the plaintiff ought to have filed an application to adduce secondary evidence. The Court below therefore opined that the photocopy, attested by incompetent persons, could not be received in evidence and accordingly upheld the objection raised by the defendant.

As Sri K.V.Bhanu Prasad, learned counsel for the petitioner/plaintiff, vehemently contended that the document in question was not a photocopy as opined by the Court below, this Court called for the entire record relating to the suit. The same was accordingly transmitted by the Court below. Perusal of the subject document does not indicate that it is a photocopy. It bears the signatures of the Assistant

Secretary and the Sarpanch of Gopalapuram Gram Panchayat along with the seal of Gopalapuram Gram Panchayat, Hanamkonda Mandal. The signatures, categorized as an attestation by the Court below, do not bear out that they have been affixed on the said document for the purpose of attesting the same as a true copy. On a bare perusal, the document appears to be an original document duly signed by the Assistant Secretary and the Sarpanch of the Gram Panchayat with the accompanying seal. Both the learned counsel appearing for the parties confirmed this aspect after being shown the document.

Rejection of the subject document on the ground that it was a photocopy attested by incompetent persons is therefore unsustainable. No doubt, the document does not contain any layout plan number but the repercussions of the same would have to be considered by the Court below upon deeper examination at the appropriate stage and the document cannot be shutout at the threshold on wholly erroneous grounds. The order under revision is accordingly set aside.

The CRP is allowed. The Court below shall permit the subject document to be marked in evidence. It shall however be open to the defendant to raise all such objections as are available to him in law as against the subject document at the time of hearing of the main suit and the Court below shall consider the same in accordance with law. Pending miscellaneous petitions shall stand closed in the light of this final order. No order as to costs.

Registry is directed to immediately transmit the original record pertaining to the suit, O.S.No.298 of 2004, to the file of the learned Principal Junior Civil Judge, Warangal.

SANJAY KUMAR, J

20th MARCH, 2015

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