

THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

CIVIL REVISION PETITION No.2610 of 2015

ORDER:

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The plaintiff in Original Suit No.41 of 2007, which was subsequently transferred to XI Additional District and Sessions Judge (Fast Track Court) Ranga Reddy District and renumbered as O.S.No.148 of 2009 is the petitioner in this revision.

During the course of his examination as P.W.1, the plaintiff sought for exhibiting a particular document. That was objected to by the opposite party on the ground that the document talks of past partition amongst the sharers and hence, it requires registration. Without registration, the document cannot be received in evidence was the objection. That objection has been upheld by the Court and in the result the document dated 06.03.1995 styled as deed of settlement is declared as not admissible in evidence for want of registration. An order to that effect was passed on 20.04.2015, which is the subject matter for consideration in this revision.

Heard Sri B.Chandrasen Reddy, learned counsel for the petitioner and Sri P.Venugopal, learned Senior Counsel on behalf of the counsel for the respondents, who are the defendants in the suit.

The principles relating to marking a document, which is not registered, have been consistently considered by the Courts. In fact the Supreme Court in “***Omprakash v. Laxminarayana and others (2014 (1) ALD 83 (SC))*** has pointed out that the admissibility of a document is entirely dependent upon the contents of the recitals contained in that document but not on the basis of the pleadings set up by the party who seeks to introduce the said document.

Further, if a document, which is liable to be compulsorily registered in terms of and in accordance with the Section 17 of the Registration Act,

1908, Section 49 of the said Act has provided for the effect of non-registration of such document and it declared that no such document, which is liable to be compulsorily registered, be received as evidence of any transaction affecting such property or conferring such right upon the parties. It is also appropriate to notice that the Supreme Court in **“K.B.Saha and sons (P) Ltd. v. Development Consultant Ltd., (2008 (8) SCC 564)”** has culled out the following 5 principles, on this subject:

“1. A document required to be registered, if unregistered is not admissible into evidence under Section 49 of the Registration Act.

2. Such unregistered document can however be used as an evidence of collateral purpose as provided in the proviso to Section 49 of the Registration Act.

3. A collateral transaction must be independent of, or divisible from, the transaction to effect which the law required registration.

4. A collateral transaction must be a transaction not itself required to be effected by a registered document, that is, a transaction creating, etc. any right, title or interest in immovable property of the value of one hundred rupees and upwards.

5. If a document is inadmissible in evidence for want of registration, none of its terms can be admitted in evidence and that to use a document for the purpose of proving an important clause would not be using it as a collateral purpose.”

In fact a five Judges Bench of this Court in **“Chinnappareddigari Pedda Muthylareddy v. Chinnappareddigari Venkatareddy (AIR 1969 AP 242)”** held that though an unregistered partition deed cannot be looked into for terms of partition, but nonetheless it can be looked into for establishing the severance in status.

Thus, a clear distinction is brought out when a document is sought to be introduced only for a collateral purpose, the same can be received in evidence and looked into though the document has not been registered as required by Section 17 of the Registration Act.

Sri B.Chandrasen Reddy, learned counsel for the petitioner – plaintiff would assert that the attempt of the plaintiff was only to introduce

the said document for collateral purpose and certainly not for showing as to how each sharer should get the appropriate share in any specified property, which is the subject matter of the suit. Therefore, for collateral purpose the document can be introduced.

Per contra, Sri P.Venugopal, learned senior counsel, in my opinion, has rightly pointed that the petitioner – plaintiff has not specified what that collateral purpose when the Court enquired from him.

In paragraph No.6 of the order passed by the Court below, the recitals of the document have been clearly noticed, which reflected the shares and also percentage by which the profits and property in the schedules have to be shared by each of them.

No exception need be drawn to the observations made by the learned XI Additional District and Sessions Judge (Fast Tract Court) Ranga Reddy District with regard to what has been noted in paragraph No.6 of the order passed on 20.04.2015. The objection of the Court that the document in question cannot be received in evidence for want of registration in view of the recitals contained in the document, which are noted in paragraph No.6 of the order cannot be taken any exception to. However, the document in question can still be received in evidence notwithstanding the fact that it is not registered as required under Section 17 of the Registration Act if the petitioner – plaintiff demonstrates the collateral purpose for which it is sought to be received by the Court and duly recording the said collateral purpose the document in question shall be received in evidence and shall not be considered the same for any other purpose other than the said collateral purpose. A collateral purpose must be independent of the past partition mentioned of in paragraph No.6 of the order.

The Civil Revision Petition stands disposed of with this order. No order as to costs.

The miscellaneous petitions, if any pending in the revision, shall

stand closed.

Learned counsel for the petitioner is permitted to bring the contents of this order to the notice of the Court below by filing a memo before it.

JUSTICE NOOTY RAMAMOHANA RAO

28.08.2015

Note: Issue C.C. by 31.08.2015.

B/o
Ksp

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND
THE STATE OF ANDHRA PRADESH**

CIVIL REVISION PETITION NO.2610 OF 2015

Between:

A.Krishna Rao

... Petitioner.

And

Sri A.Narahari Rao and 7 others.

... Respondents.

JUDGMENT PRONOUNCED ON 28th August, 2015

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THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

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1. Whether Reporters of Local newspapers
may be allowed to see the Judgments?

No

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| 2. Whether the copies of judgment may be marked to Law Reporters/Journals | No |
| 3. Whether Their Ladyship/Lordship wish to see the fair copy of the Judgment? | No |