

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

CIVIL REVISION PETITION No.4237 of 2010

ORDER:

This Revision is filed challenging the order dated 02.07.2010 in I.A.No.1371 of 2007 in O.S.No.7539 of 2005 on the file of VIII Junior Civil Judge, City Civil Court, Hyderabad.

2. The petitioner herein is the plaintiff in the suit. He filed a certified copy of sale deed dated 13th Sherawar 1342 fasli under which, according to him, his mother purchased the plaint schedule property. He contended that the original sale deed was lost, and in spite of his best efforts, he could not trace it. He, therefore, sought permission of this Court to lead secondary evidence in respect of the said sale deed while filing the certified copy thereof.

3. The respondent filed a counter contending that the petitioner was never in possession of the original sale deed; that as per the recitals in the sale deed there is also a plan annexed to it and that such a plan is not filed by the petitioner. It is also contended that the property which is subject matter of the sale deed is not the plaint schedule property.

4. By order dated 02.07.2010, the Court below rejected the said application stating that the petitioner did not mention the specific reasons for loss of the original sale deed and did not explain all the steps he had taken for finding it. It held that loss of original sale deed in the house is not a sufficient reason to allow him to lead secondary evidence.

5. Challenging the same, this Revision is filed contending that the finding of the Court below is perverse and that the petitioner cannot be compelled to state the reasons for loss of

original sale deed.

6. Learned counsel for the respondent on the other hand reiterated the objections raised in the Court below and contended that the Court below was right in dismissing the IA.

7. In the affidavit filed in support of the IA, it is specifically stated that the original sale deed dated 13th Sherawar 1342 fasli was lost and in spite of the best efforts of the petitioner, he could not trace it. I am of the opinion that the Court below is not correct in insisting the petitioner to furnish specific reasons for loss of original sale deed. It is also not correct in stating that the petitioner has not stated what steps he has taken to locate it when the petitioner specifically pleads that in spite of his best efforts, he could not find it. Since these reasons are found to be perverse, the impugned order is set aside.

8. The Court below is directed to receive the certified copy of the sale deed dated 13th Sherawar 1342 fasli, sought to be marked by the petitioner, in evidence subject to all objections which the respondents may raise as to its relevancy, admissibility and completeness. The Court below shall decide the objections raised by the respondents at the time of trial in the suit.

9. Subject to the above observations, the CRP is accordingly allowed and the order dated 02.07.2010 is set aside. No costs.

The Miscellaneous Petitions, if any, pending in this Civil Revision Petition shall stand closed.

M.S.RAMACHANDRA RAO, J

June 17th, 2015.

ssp