

THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

CIVIL REVISION PETITION NO. 451 of 2015

ORDER:

This revision is preferred by the petitioners in I.A.No.415 of 2013 in A.T.C No.4 of 2009. The first respondent herein who is none other than the sister of the petitioners herein has instituted A.T.C.No.4 of 2009 seeking eviction of respondents 2 & 3 herein who are cultivating the scheduled agricultural land. A.T.C.No.4 of 2009 has come up for trial and P.W.1 was already examined and P.W.2 is to be cross-examined. At that stage, the petitioners herein have filed an application seeking impleadment not as petitioners, but as respondents 3, 4, & 5. The claim of the petitioners is that, only a fortnight back, they have come to know that their sister, the first respondent herein has filed A.T.C.No.4 of 2009 against the respondents 2 & 3 herein with regard to cultivable land of an extent of Ac.1.08 cents in RS No.434/1 of Devaguptam Village. It is the case of the petitioners that this agricultural land originally belonged to their mother who got it from her mother apart from some other property situated at Kadali Village. It is also the case of the petitioners herein that their mother executed a registered will on 15.03.1995 bequeathing the scheduled agricultural land of an extent of Ac.1.08 cents amongst all her four daughters in equal proportion. It is their case that their mother died on 22.11.2006. Therefore, since they are co-owners, they are entitled to come on record of the A.T.C, so that their rights can also be adjudicated. The first respondent, the sister of the petitioners has filed a detailed counter affidavit denying the petitioner averments. She has contended that the scheduled property of Ac.1.08 cents is an absolute and exclusive property of her. It is the specific case of the first

respondent that the scheduled property undoubtedly belonged to her mother. But however, she has executed a registered gift deed on 26.10.2008 gifting property in question to the first respondent and ever since the said gift is accepted by the first respondent herein, she was in continuous possession and enjoyment of the suit schedule property without any let or hindrance and only for purpose of extending some help to the respondents 2 & 3, the tenants, present application is filed with a view to drag on the proceedings as long as one can.

In view of the specific stand taken by the first respondent herein that the schedule property has been gifted to her by her mother, the petitioners have to work out their right independent of this A.T.C by either establishing the will through which they have acquired right to the property or by squarely challenging the gift settlement deed said to have been executed by the mother in favour of the first respondent herein. Such questions relating to co-ownership cannot be decided by the tenancy court.

Therefore, preserving the said liberty to the petitioners, provided the same is available under law to them, this civil revision petition is dismissed.

Consequently, miscellaneous applications pending shall also stand dismissed. No costs.

JUSTICE NOOTY RAMAMOHANA RAO

10.03.2015
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