

HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

C.R.P.No.289 of 2015

ORDER:

This Revision Petition is filed under Article 227 of the Constitution of India challenging the Order dt.16-12-2014 in I.A.No.564 of 2014 in O.S.No.65 of 2013 of the Junior Civil Judge, Jammalamadugu, YSR Kadapa District.

2. The petitioner herein is plaintiff in the said suit. A partition agreement dt.20-09-2006 was sought to be relied upon by the petitioner and he filed the said I.A. under Section 35 (a) of the Indian Stamp Act, 1899 to impound it, send it to the District Registrar's office for collection of stamp duty and to register it. It is contended in the said application that already there was partition between the petitioner and the respondents, the particulars of the properties were mentioned in the above document and to prove the factum of partition, the said document needs to be impounded under the said Act.
3. Counter affidavit was filed by the respondents denying the truth and validity of said agreement and contending that it is an incomplete document and was never acted upon since 2nd respondent had not signed the last page of the said agreement. They further contended that even if the said document is impounded and stamp duty and penalty paid thereon, it may not be any legal valid.
4. By Order dt.16-12-2014, the said I.A. was dismissed by the Court below observing that the said document is an incomplete document and never acted upon since 2nd respondent has not signed in the last page of the document and sufficient stamp

duty is not paid. It held that it is an incomplete document and so it cannot be sent to the District Registrar for collection of stamp duty and penalty.

5. Learned counsel for the petitioner would submit that 2nd respondent had signed on the said agreement dt.20-09-2006 on four sheets as an executant and on the last page, instead of signing at the place where the executant should sign, he signed by mistake at the place which is intended to be signed by the witnesses and the intention of 2nd respondent was to sign the document only as an executant and not as an attestor/witnesses. It is further contended that the respondents cannot take advantage of this and contend that the document is an incomplete document.
6. Learned counsel for the respondents on the other hand contends that the signature of 2nd respondent on the last page does not exist and therefore, it cannot be said that the document is an incomplete document.
7. Copy of the document dt.20-09-2006 has been placed before me. A perusal of the said document discloses that on four pages, the 2nd respondent had signed as an executant thereof and on fifth page, however, instead of signing at the place intended for executant, his signature is found at the place intended for witnesses.
8. This is not a case where there is no signature at all of the 2nd petitioner on the last page of the said document. In my opinion it is a matter of evidence whether 2nd respondent had signed on the last page only as a witness after having signed

other pages as an executant.

9. Therefore the Civil Revision Petition is allowed and the Court below is directed to send the document in question to the Sub Registrar for impounding and after the adequate stamp duty and penalty are paid by the petitioner, the Court below shall receive the document and at the time of filing of the suit, consider whether the document is a complete or incomplete document in the light of the evidence adduced by the parties. This Court is not expressing any opinion as to whether the document is complete or an incomplete document in this order. The trial Court shall decide the matter finally uninfluenced by the Order dt.16-12-2014 in I.A.No.564 of 2014 and this Order. No costs.
10. As a sequel, the miscellaneous petitions, if any pending, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 23-04-2015

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