

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

C.R.P.Nos.2721, 2723, 2759 & 2769 of 2015

COMMON ORDER:

Heard Sri Alluri Raghu Rama Aurava, learned counsel for the petitioners and Sri G.Ramachandra Reddy, learned counsel for the respondent.

2. Since all these Revision Petitions relate to the same subject matter and all the petitioners are one and the same, they are being disposed of by this Common Order.
3. These Revision Petitions are filed challenging the orders dt.10-12-2014 in I.A.No.291 of 2014 in O.S.No.163 of 2008, I.A.No.289 of 2014 in O.S.No.161 of 2008, I.A.No.292 of 2014 in O.S.No.164 of 2008 and I.A.No.288 of 2014 in O.S.No.159 of 2008 of the III Additional Junior Civil Judge at Warangal, respectively.
4. The petitioners herein are defendants in the said suits. The respective respondents/plaintiffs filed the said suits for perpetual injunction restraining the petitioners from interfering with the alleged peaceful possession and enjoyment of the suit schedule properties.
5. The respective respondents/plaintiffs filed the above applications in the above suits stating that they had purchased the suit schedule properties under registered sale deeds dt.25-08-2006 and they had filed the certified copies thereof along with the plaint; that since the original of the sale deeds were with their creditors from whom they had obtained a loan, they contended that they may be permitted to file a certified copy of the sale deeds and mark the same in the temporary injunction petitions.

6. Counter affidavits were filed by the petitioners admitting that registered sale deeds exist in favour of the respondents, but they contended that the said documents were obtained by the respondents in collusion with certain other persons who did not have any right in the schedule property.
7. By separate orders dt.10-12-2014, the Court below allowed all the said applications. It rejected the contention of the petitioners that the respective respondents did not take steps to summon the original documents and that certified copies cannot be received in evidence, when the original exists. It observed that in each and every case, there is no necessity to summon the original of a document particularly when the certified copy of the document is obtained from public office. It also gave liberty to the petitioners to cross examine the witness about the original.
8. Challenging the same, these Revision Petitions are filed.
9. Learned counsel for the petitioners contended that there is no compliance with Section 65 of the Indian Evidence Act, 1872 (for short 'the Act') since no notice has been issued to the custodian of the original of the sale deed dt.25-08-2006 to produce it, and that there is no explanation offered by the respondents for not producing the originals. He also placed reliance on the judgment of this Court in **Syed Fahim Arif and another Vs. Rahmatunnisa Begum and another**.
10. Learned counsel for the respondents, on the other hand, pointed out that petitioners had, in their counter filed to the said I.A., admitted the existence of the said registered sale deeds and therefore under clause (b) of Section 65 of the Act, the

respondents are entitled to produce certified copy.

11. Section 65 (b) of the Act permits secondary evidence to be given for a document if the existence, condition or contents of the original has been proved to be admitted in writing by the person against whom it is proved.
12. In the counter affidavit filed by the petitioners they have specifically stated that there is a registered sale deed in favour of each of the respondents executed by persons who had no right in the property in respect of the suit schedule property.
13. Therefore, in my considered opinion, in view of clause (b) of Section 65 of the Act, the certified copies of the documents in question are admissible and the written admissions in para-3 of the counter of the petitioners in the said applications is also admissible. The judgment cited by the learned counsel for the petitioners is not applicable to the present cases since in that case, no valid explanation was furnished as to why secondary evidence was adduced. But in the present case such explanation has been given.
14. Therefore, I do not find any merit in the Civil Revision Petitions and the same are accordingly dismissed. No costs.
15. As a sequel, the miscellaneous petitions pending, if any, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 21-09-2015

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