

*** THE HON'BLE MR JUSTICE C.V.NAGARJUNA REDDY**

+ Civil Revision Petition No.1866 of 2015

+ DT.14.08.2015

Kancherla Sivaramaiah

...Petitioner

Vs.

\$ Musunuru Venkata Krishna Rao and others

... Respondents

^ Counsel for the Petitioner: Smt.Nimmagadda Revathi
for Sri Nimmagadda Satyanarayana

! Counsel for respondent No.1: Sri Sricharan Telaprolu

< Gist:

> Head note:

? Cases referred:

2012 (6) ALD 163

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

Civil Revision Petition No.1866 of 2015

Dated 14th August, 2015

Between:

Kancherla Sivaramaiah

...Petitioner

And

Musunuru Venkata Krishna Rao and others

...Respondents

Counsel for the petitioner: Smt.Nimmagadda Revathi
for Sri Nimmagadda
Satyanarayana

Counsel for respondent No.1: Sri Sricharan Telaprolu

The Court made the following:

ORDER:

This civil revision petition is filed by defendant No.1 in O.S.No.111 of 2014 on the file of the learned Principal Junior Civil Judge, Mangalagiri, feeling aggrieved by the order of the lower Court in not permitting marking of possessory agreement of sale, dated 14.07.1991, through him.

Respondent No.1 filed the above-mentioned suit for permanent injunction against the petitioner and respondent Nos.2 to 9. The petitioner is defendant No.1 in the said suit. During the evidence of the petitioner as DW.1, he sought to mark the above-mentioned document in order to show that respondent No.1/plaintiff is not in possession of the suit schedule property and on the contrary, he is in possession of the property. The lower Court has declined to receive the said document in evidence only on the ground that the purported agreement of sale is in the nature of a possessory agreement evidencing delivery of possession and that as the same is not registered, it cannot be looked into evidence.

At the hearing, Smt.Nimmagadda Revathi, learned counsel for the petitioner, submitted that the petitioner sought to mark the said document in the suit for collateral purpose, namely, to establish that respondent No.1 is not in possession of the property and that the petitioner is in possession of the same. She has relied upon the proviso to Section 49 of the Registration Act, 1908 in support of her submission that even an unregistered document is admissible in

evidence for collateral purpose. She has also placed reliance on the judgment of this Court in **K.Ramamoorthi v. C.Surendranatha Reddy**^[1] in support of her submissions.

A perusal of the order of the lower Court shows that the only ground on which it has declined to admit the possessory agreement of sale in evidence is that it was not a registered document. However, the lower Court has not considered whether the document can be admitted into evidence for collateral purpose, namely, to prove possession. The law is well settled that an unregistered document which requires registration is relevant as evidence on any collateral transaction. This Court in **K.Ramamoorthi** (*supra*) has exhaustively considered as to what constitutes collateral purpose and at para-25(e) held as under:

“A sale deed of immovable property requiring registration but not registered can be used to show nature of possession (Radhomal Alumal’s case (*supra*), Bondar Singh’s case (*supra*) and A.Kishore’s case (*supra*).”

Sri Sricharan Telaprolu, learned counsel for respondent No.1, submitted that as the petitioner is not a party to the proposed document, the same cannot be admitted into evidence.

I am afraid, I cannot accept this submission. Whether a document is relevant or not does not solely dependant upon whether the proponent of the document was a party to such document or not. Even if the petitioner is not a party to the said document, still to prove his plea regarding possession, he can rely upon the said document. In **K.Ramamoorthi** (*supra*) also, an unregistered sale deed executed between two third parties was directed to be admitted in evidence for proving possession.

In the light of the above discussion, I am of the opinion that the lower Court has committed a serious jurisdictional error in not admitting possessory agreement of sale, dated 14.07.1991, into evidence for collateral purpose, namely, to determine possession of

the parties.

Accordingly, the impugned order of the lower Court in the IA is set aside. The said document is directed to be marked into evidence subject to its proof and relevancy.

The civil revision petition accordingly stands allowed.

As a sequel to disposal of the civil revision petition, CRP.MP.No.2485 of 2015 shall stand disposed of as infructuous.

C.V.NAGARJUNA REDDY, J

14th August, 2015
VGB

[\[1\]](#) 2012 (6) ALD 163