

HONOURABLE SRI JUSTICE A.RAJASHEKER REDDY

Civil Revision Petition No. 2328 OF 2015

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Between:

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Begari Neelakanta and others.Petitioners

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And

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Begari Pedda Yellamma and others. ..Respondents

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Date of Judgment pronounced: 12.08.2015

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Submitted for Approval:

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The Hon'ble Sri Justice A.Rajasheker Reddy

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1. Whether Reporters of Local newspapers
May be allowed to see the Judgments? Yes/No

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2. Whether the copies of judgment may be
Marked to Law Reporters/Journals Yes/No

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3. Whether His Lordship wish to see the fair
Copy of the Judgment? Yes/No

HONOURABLE SRI JUSTICE A.RAJASHEKER REDDY

Civil Revision Petition No. 2328 of 2015

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ORDER :

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This Civil Revision Petition is filed against docket order dated 06.04.2015 in O.S.No.13 of 2013, wherein the Court below held that the document dated 30.04.1973, which was sought to be marked by the petitioners/defendants was objected to by the respondents/plaintiffs stating that the said document requires registration and payment of stamp duty. As such, the said document dated 30.04.1973 cannot be

marked in evidence as exhibit on the ground that the same is hit by the provisions of Section 17 of the Indian Stamp Act, 1899 and Section 35 of the Registration Act, 1908.

2. Learned counsel for the petitioners submit that as far as the document pertaining to Schedule-B property is concerned, the document is only a will deed, but not a gift deed, as such, a Will Deed does not require any registration or payment of stamp duty, as such, the said document can be marked in evidence. He also submits that for collateral purpose, the same can be taken into consideration.

3. On the other hand, learned counsel for the 3rd respondent submits that even in respect of Schedule B property, it amounts to conditional gift and same cannot be permitted to be marked in evidence as exhibit, as the same is not registered and stamped. In support of his contention, he relied on the judgment reported in **Renikuntla Rajamma (dead) by Legal Representatives v. K.Sarwanamma**^[1]. He also submits that the document should be read as a whole but not in part. If the document is read in whole, it amounts to gift deed. He further submits that as far as the averment in the first schedule is concerned, it is a gift and that the averment in respect of B schedule is amounts to conditional gift and that the same is required registration under Section 17 of Stamp Act and Section 35 of the Registration Act. In view of the same, the said document cannot be admitted into evidence.

4. In the instant case, even according to the learned counsel for petitioners, the averment regarding A schedule property is a gift and possession was also delivered. It is clearly stated that the donor has no right except right to enjoy the property during her life time.

In view of the judgment of the Hon'ble Supreme Court in **Renikuntla Rajamma (dead) by Legal Representatives v. K.Sarwanamma (supra)**, there can be a conditional gift and the donor has right to enjoy the property during her life time.

In **Challa Rama Krishna Reddy v. Pulusu Peri Reddy**^[2], it is held that if the document answering description of more than one instrument, the document has to be read as a whole to ascertain exact nature of document. In the instant case, a part of the disputed document is nothing but a conditional gift in respect of schedule B property. In view of above, I do not see any error or illegality in the order passed by the Court below.

Accordingly, Civil Revision Petition is dismissed. There shall be no order as to costs. As a sequel thereto, miscellaneous petitions, if any, pending in this Civil Revision Petition, shall stand dismissed.

12.08.2015.
KVS

A.RAJASHEKER REDDY, J

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Date: 12-08-2015

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[\[1\]](#) (2014) 9 Supreme Court Cases 445

[\[2\]](#) 2012 (4) ALD 427