

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

CIVIL REVISION PETITION No.4776 of 2015

ORDER:

This Civil Revision Petition is filed against the order dated 16.09.2015 passed in I.A. No.413 of 2015 in O.S. No.140 of 2008 on the file of the Junior Civil Judge, Yemmiganur, Kurnool District (for short, 'Court below'), wherein, the Court below has dismissed the said I.A. filed under Order XVI Rules 1 and 5 of the Code of Civil Procedure, 1908 (for short, 'CPC') for issuing summons to the scheduled witnesses to give evidence before the Court below as per rectification deed No.4789/2011 dated 01.08.2011 and cancellation of rectification deed dated 24.02.2012 and also to produce records of Sub Registrar's Office, Yemmiganur with regard to said rectification and cancellation of rectification deeds.

2. The case of the petitioner is that he is the 4th defendant in the present original suit filed by the 1st respondent-plaintiff for declaration of right and title over the plaint schedule property basing on the registered sale deed. It is stated that the petitioner purchased the property under registered sale deed dated 23.03.2010 from the 3rd defendant for a consideration of Rs.17,04,000/- and from the date of purchase, he has been in possession and enjoyment of the property. I.A. No.393 of 2008 in the said original suit filed by the 1st respondent-plaintiff seeking temporary injunction was also dismissed. The 1st respondent-plaintiff altered the survey No.388B instead of 388A in the registered sale deed under document No.3808 of 1993 and the same was by virtue of rectification deed executed on 01.08.2011 and the same was cancelled subsequently. As such, the present application in I.A. No.413 of 2015 was filed by the petitioner-4th defendant seeking to summon the Sub Registrar, who was functioning at the time of registration of rectification deed as well as the cancellation of rectification deed, which was dismissed by the Court below. Challenging the

same, the present revision petition is preferred.

3. Learned counsel for the petitioner-4th defendant submits that the Sub Registrar, who was present at the time of registration of rectification deed and subsequent cancellation of rectification deed, is very relevant to state about the procedure followed for registering the rectification deed as well as the cancellation of rectification deed.

4. On the other hand, the learned counsel for the 1st respondent-plaintiff opposed the same stating that the present Sub Registrar is examined as P.W.2 and the entire record, pertaining to registration of rectification deed and cancellation of rectification deed, is available on record, and as such, the Court below has rightly dismissed the interlocutory application.

5. It is to be seen that already Sub Registrar presently working was examined as P.W.2 and the entire record pertaining to the said registration of the said rectification deed and cancellation of rectification deed is available before the Court below. The petitioner-4th defendant should have cross-examined P.W.2 regarding the procedure adopted for execution of rectification deed as well as the cancellation of rectification deed and the record is also before the Court and form part of the record, the petitioner can point out the errors, if any occurred in the procedure followed for rectification deed or for cancellation of rectification deed. But instead of doing the same, there is no purpose in calling the Sub Registrar. Any Sub Registrar can depose about the said rectification deed and cancellation of rectification deed basing on the material available on record about the procedure followed in registering the above documents. In view of the same, I do not see any error in the order passed by the Court below in dismissing the said interlocutory application.

6. Accordingly, the Civil Revision Petition is dismissed. There shall be no order as to costs.

7. As a sequel thereto, miscellaneous petitions, if any pending in this revision, shall stand closed.

A.RAJASHEKER REDDY, J

18.11.2015

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