

HONOURABLE SRI JUSTICE A.V. SESA SAI

CIVIL REVISION PETITION No. 2206 OF 2014

DATED 23RD MARCH, 2015.

BETWEEN

Chinthapandu Rajeswari

Petitioner

And

Chintapandu Radhamma and ors

...Respondents.

HONOURABLE SRI JUSTICE A.V. SESA SAI

CIVIL REVISION PETITION No. 2206 OF 2014

ORDER:

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This Civil Revision Petition, filed under Article 227 of the Constitution of India, challenges the order dated 05.12.2013 passed by the learned Senior Civil Judge, Manthani, Karimangar District in I.A.No.947 of 2013 in O.P.No.50 of 2012.

Heard Sri T. Ramachandra Rao, learned Counsel for the petitioner and Sri V. Ravinder Rao, learned Counsel for the respondents. Perused the material available before this Court.

In a reference under Section 30 of the Land Acquisition Act, which has been numbered as OP.No.50 of 2012, Claimant No.3/petitioner herein filed I.A.No.947 of 2013 under the provisions of Order 8 Rule 1A(3) of Code of Civil Procedure,

seeking leave of the Court to file family settlement deed dated 01.11.1999. The respondents resisted the said application by way of filing counter affidavit. The learned Senior Civil Judge, Manthani, by way of order dated 05.12.2013, dismissed the said application filed by the petitioner herein. Aggrieved by the said order of the learned Senior Civil Judge, the present revision has been filed.

It is contended by the learned Counsel for the petitioner that the order passed by the Court below is erroneous and contrary to law and is opposed to the very spirit and object of the provisions of Order 8 Rule 1A(3) of CPC. It is further argued by the learned Counsel that the learned Senior Civil Judge did not properly consider the averments made in the affidavit filed in support of the application and had the same been considered in a proper perspective, the order impugned in the present revision would not have been emanated. It is also contended by the learned Counsel that the reasons assigned by the Court below in the impugned order are neither valid nor proper. The learned Counsel placed reliance on the decisions in *Bada Bodaiah Vs. Bada Lingaswamy* {2003(1)ALD 790}, *M/s. Radha Agencies Vs. Vijay Bank* {AIR 2002 AP 91}, *Kejriwal Enterprises Vs. General Manager, Ordnance Factory* {AIR 2004 Calcutta 225}, *R. Viswanatham Setty Vs. T.Lakshminarasamma* {2000(5)ALT 165} and *P.S.M. Ahamed Abdul Khader Vs. T.K.Mohammed Abubucker* {AIR 2002 Madras 213}.

Per contra, it is contended by the learned Counsel for the respondents that the order passed by the learned Senior Civil Judge is in conformity with the provisions of the Order 8 Rule

1A(3) of CPC and there is no illegality nor material infirmity in the order passed by the Court below and in the absence of the same, the present Civil Revision Petition is not maintainable under Article 227 of the Constitution of India. It is also contended by the learned Counsel that the execution of family settlement deed in favour of the petitioner is totally false and that the question of giving property of the father by the son would not arise during the life time of the father. It is also submitted by the learned Counsel that the petitioner has not assigned sufficient reasons for not filing the subject document before the Land Acquisition Officer as well as before this Court earlier.

In the background of the above submissions, now the question that arises for consideration is, whether the order passed by the Court below is in accordance with law ?

The subject matter of reference in O.P.No.50 of 2012 is the land, admeasuring to an extent of 143 square yards with house structure bearing D.No.2-47 situated in Sy.No.587/1 of Peddampet Village, Karimnagar District. In the affidavit filed in support of the application in I.A.No.947 of 2013, it is the case of the petitioner that Claimants 1 & 2/ respondents 1 and 2 herein who are mother-in-law and husband of the petitioner herein, have made objection without any right or title . It is also the case of the petitioner that Claimant No.2 married another lady twenty years back and a panchayat was held by the elders of both sides, in which, Claimant No.2 and his father executed a family settlement deed in her (petitioner herein) favour on 01/11/1999. It is the justification of the petitioner for delay that

the original family settlement deed dated 01/11/1999 could not be filed at the time of filing the claim statement as the same was misplaced.

On the other hand, it is the case of the respondents herein that execution of the family settlement deed in favour of the petitioner is totally false.. It is the further case of the respondents herein that when the father of Claimant No.2 was alive, the question of giving his property by his son during his father's life time does not arise. It is also the specific stand of the respondents herein that no valid and sufficient cause was shown by the petitioner for condonation of delay in filing the document and that the reason assigned by the petitioner therefor is not proper. It is also the specific case of the respondents herein that at the time of filing the claim statement, Claimant No.3/petitioner herein has already filed Xerox copy of the family settlement deed and at the time of cross-examination of P.Ws.1 to 5, the said document was shown to the witnesses in the open Court.

A perusal of the order passed by the Court below, which is impugned in the present revision, discloses that the learned Senior Civil Judge took into consideration various aspects including the delay, impact of the provisions of Stamp Act and lack of reasons. The learned Judge also recorded a finding that as per the Chief affidavit of the father-in-law of the petitioner is a thump impressionist and no thumb impression on the subject document is present. The learned Judge took into consideration the provisions of Section 122 of the Transfer of Property Act. The learned Judge categorically recorded a

finding that the petitioner has not filed the subject document before the Land Acquisition Officer in the year 2007.

In the facts and circumstances of the case, the judgment on which the learned Counsel for the petitioner placed reliance would not render assistance to the petitioner herein. In the instant case, the petitioner herein did not assign any valid reasons which enable her to maintain an application under the provisions of Order 8 Rule 1A(3) of CPC. It is settled proposition of law that unless the order impugned suffers from patent perversity or jurisdictional error, invocation of jurisdiction of this Court under Article 227 of the Constitution of India is not permissible.

For the aforesaid reasons, the Civil Revision Petition is dismissed. However, keeping in view the nature of controversy, this Court deems fit and proper to direct the Court below to dispose of the OP No. 50 of 2012 as expeditiously as possible.

Miscellaneous petitions pending consideration if any in the Civil Revision Petition shall stand closed in consequence. No order as to costs.

JUSTICE A.V. SETHA SAI

DATED 23RD MARCH, 2015.
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