

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

CIVIL REVISION PETITION No.2434 of 2015

ORDER:

This revision, under Article 227 of the Constitution of India, is preferred against the order passed by the VI Additional Senior Civil Judge, Visakhapatnam in I.A. No.926 of 2014 in O.S. No.509 of 2008 dated 19.01.2015.

The revision petitioner is the plaintiff in O.S. No.509 of 2008, and the petitioner in I.A. No.926 of 2014. The said I.A. was filed, under Section 151 CPC, requesting the Court below to pass an order on the question whether the subject document required registration. O.S. No.509 of 2008 was filed for cancellation of the gift deed dated 19.01.2004 said to have been executed by Smt. K. Appayamma in respect of B schedule property, for partition of the B schedule into two equal shares, and for allotment of one share to the petitioner, and the other share to the respondent, as Smt. K. Appayamma had no legal heirs.

At the time of marking the documents, the respondent herein raised an objection that the partition deed, though impounded, could not be marked as it was not registered under the Registration Act. The Court below held that, once a document is required by the Registration Act to be registered, it cannot be exhibited as a document for the main purpose i.e., for proving the recitals of the document; however, to prove the severance of status and to prove the factum of possession, the document could be marked for collateral purposes; Section 23 of the Registration Act envisaged that the document could be presented to the Registrar for registration within four months from the date of its execution; as the subject document was dated 30.06.1997, the petitioner could not now seek permission of the Court to get the said

document registered; however he could use the said document for the limited purpose of proving the factum of partition and the nature of possession, which is nothing but for a collateral purpose; and the petitioner was not entitled to the relief sought.

Before this Court Sri K. Chidambaram, Learned Counsel for the petitioner, would reiterate the very same submissions as were urged before the Court below. It is not in dispute that, under Section 17(1)(b) of the Registration Act, non-testamentary instruments, which purport or operate to create, declare, assign, limit or extinguish any right, title or interest vested in immovable property, requires registration. The Court below has rightly held that the subject document required registration and, in the absence of its registration, could not be used for the purpose of proving its contents, but could be used for collateral purposes.

The order of the Court below does not suffer from any patent illegality necessitating interference under Article 227 of the Constitution of India. The Revision fails and is, accordingly, dismissed. The miscellaneous petitions pending, if any, shall also stand dismissed. No costs.

RAMESH RANGANATHAN, J

Date: 17.07.2015

MRKR