

THE HON'BLE SRI JUSTICE SANJAY KUMAR

CIVIL REVISION PETITION Nos.3936 and 3937 OF 2014

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DATED: 24.02.2015

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Between:

Kandalapu Laxmi (died) and others

.. Petitioners

And

Uppunuthula Sarojini

.. Respondent

THE HON'BLE SRI JUSTICE SANJAY KUMAR

CIVIL REVISION PETITION Nos.3936 and 3937 of 2014

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COMMON ORDER:

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These two civil revision petitions are amenable to a conjoined disposal. Hence, this common order.

The petitioners in these civil revision petitions are the defendants in O.S.No.296 of 2002 on the file of the learned I Additional Senior Civil Judge, Warangal. The said suit was filed for partition of the plaint schedule properties and was at the stage of trial. While so, the trial Court closed the plaintiff's evidence treating the cross-examination of P.W.1 as nil and posted the mater for the defendants' evidence. The defendants thereupon filed I.A.No.409 of 2014 to reopen the case for cross-examination of P.W.1 and I.A.No.410 of 2014 to recall P.W.1 for cross-examination. Both these I.As. were dismissed by the trial Court by separate orders dated 04.09.2014, leading to the filing of these civil revision petitions.

Perusal of the orders under revision reflects that the sole ground relied upon by the trial Court was that the 2nd petitioner in the I.As. was described as Ramagiri Kannamba, but the sworn affidavits deposed to

by her in support of the I.As. were signed by R. Kalavathi. The trial Court therefore opined that the said affidavits could not be accepted and accordingly dismissed the I.As.

Learned counsel for the petitioners specifically stated before this Court that the 2nd petitioner, Ramagiri Kannamba, also signs her name as R. Kalavathi. This contention is supported by paragraph 3 of the affidavits filed in support of the miscellaneous petitions filed in these C.R.Ps., wherein the deponent, Ramagiri Kannamba, stated that she had herself signed the affidavits filed in support of the I.As. before the trial Court and that as she was called by two names, R. Kannamba @ R. Kalavathi, she was in the habit of signing as R. Kalavathi. In the light of these affidavits and as Sri Ghanshyamdas Mandhani, learned counsel appearing for the respondent-plaintiff, does not rebut the claim put forth by Ramagiri Kannamba, the orders passed by the trial Court cannot be sustained.

The civil revision petitions are accordingly allowed, setting aside the orders dated 04.09.2014 passed by the learned I Additional Senior Civil Judge, Warangal, in I.A.Nos.409 and 410 of 2014 in O.S.No.296 of 2002. The trial Court shall reopen the case for cross-examination of P.W.1 by duly recalling him. The petitioners-defendants undertake before this Court that they will conclude the cross-examination of P.W.1 in one sitting or, at best, two. The trial Court shall take note of this undertaking and permit the cross-examination of P.W.1.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

JUSTICE SANJAY KUMAR

24th February, 2015
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