

**THE HON'BLE SRI JUSTICE M.S. RAMACHANDRA
RAO**

CIVIL REVISION PETITION No.3991 of 2014

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ORDER:

This Civil Revision Petition is filed challenging the order

dt.18-09-2014 in O.S.No.530 of 2004 of the Principal Junior Civil Judge, Amalapuram.

2. The petitioners herein are plaintiffs in the above suit. They filed this suit to declare certain documents set up by defendants as void and for a perpetual injunction.

3. Written statement was filed by defendants opposing the suit claim.

4. Issues were framed, trial commenced and the evidence on the side of plaintiffs was concluded. The defendants' side evidence then commenced. D.Ws.1 and 2 were examined. D.W.3's chief-examination was also completed. During cross-examination of D.W.3, the learned counsel for plaintiffs confronted to the said witness and questioned whether the signature of 2nd attester in a lease deed dt.06-06-2002 is his signature or not. The witness admitted that it was his signature.

5. The Court below then looked into the said document

and opined that it is a document executed on blank paper and requires stamp duty and penalty.

6. The learned counsel for petitioners requested time to get it impounded and subsequently stamp duty and penalty were paid thereon.

7. Thereafter the learned counsel for defendant Nos.2 and 3 contended that the document is a compulsorily registerable document and even if stamp duty and penalty are paid, it cannot be looked into. Certain decisions were also cited in the Court below and Section 49 of the Registration Act, 1908 (for short 'the Act') was also noted.

8. Thereafter the Court below in the impugned order held that the document in question is a lease deed said to have been executed by one Bhupathiraju Krishnamraju a n d Bhupathiraju Satyanrayanaraju and it is a compulsorily registerable document. But it strangely came to the conclusion that it cannot be admitted even for collateral purpose, even though Section 49 of the Act permits an unregistered document to be taken in evidence for a collateral purpose.

9. According to the learned counsel for petitioners, it is the stand of the petitioners that the signatures of the executant in the Will
dt.28-10-2010, which is disputed by petitioners as not

belonging to its executant thereof, is in the same handwriting as that of the D.W.3 contained in the lease deed dt.06-06-2002, which was confronted to the said witness. The learned counsel for petitioners further contended that the transaction of lease which is subject matter of the said document is not sought to be relied on by petitioners and only for collateral purpose of comparing the signature of D.W.3 on the said document with disputed signature on the Will dt.28-10-2000, the document was confronted to the said witness. According to the learned counsel for petitioner, this purpose is only a collateral purpose and therefore the Court below is not correct in taking a view that since the lease deed in question is a compulsorily registerable document, it is not even admissible for collateral purpose.

10. The learned counsel for respondents does not dispute the proposition that even if a document is unregistered, Section 49 of the Act permits the document to be received in evidence of a collateral transaction.

11. Having regard to these submissions, I am of the opinion that the Court below is not correct in stating that the document in question i.e. lease deed dt.06-06-2002 cannot be received in evidence for the limited purpose of proving the signature of D.W.3 thereon as

2nd attestor and for possible comparison thereof with the handwriting/alleged signature of executant on the Will dt.28-10-2000.

12. The observation of the Court below in the last paragraph of its order that if the document is received or admitted, the landlord and tenant relationship is to be considered and it will not come under the exception to the rule, also cannot be accepted, because the document in question is not being confronted by petitioners to D.W.3 to prove the alleged landlord and tenant relationship between the plaintiffs' mother and the husband of defendants, who are said to be tenants of defendants' father, since admittedly none of these persons are parties to that lease deed.

13. Therefore, I am of the opinion that the document in question i.e. lease deed dt.06-06-2002 can be received in evidence for limited purpose of comparing the signature of D.W.3 thereon as 2nd attestor with the handwriting/signature allegedly of executant on the Will dt.28-10-2000, which is said to be forged according to petitioners.

14. This Civil Revision Petition is allowed accordingly.
No costs.

15. As a sequel, miscellaneous petitions pending, if any, shall stand disposed of.

JUSTICE M.S. RAMACHANDRA RAO

Date: 25-06-2015

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