

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

CIVIL REVISION PETITION No.1224 of 2015

ORDER:

This Revision is filed challenging the order dt.26-11-2014 in I.A.No.324 of 2011 in O.S.No.691 of 2006 of the Principal Junior Civil Judge at Bhimavaram.

2. The petitioners herein are defendants in the suit. The said suit was filed by respondents against petitioners for a perpetual injunction restraining the petitioners from interfering with their alleged peaceful possession and enjoyment of the plaint schedule property. The plaint schedule property is an extent of Ac.0-04 cents of site in R.S.No.311/1 of Akividu Village and Mandal of West Godavari District enclosed within specific boundaries.
3. According to respondents, there is a lane in existence providing access to their plots, which is disputed by petitioners. During the course of their evidence, respondents sought to mark a document dt.20-08-1956 purporting to be a partition list through P.W.1. This was objected to by petitioners on the ground that P.W.1 was neither a party to the suit nor a party to the partition list, that the said document was torn and a portion of it is missing, and so it is not a complete document and has no evidentiary value in law. This objection was raised by filing a memo on behalf of petitioners.
4. By order dt.26-11-2014, the Court below rejected the memo and permitted the respondents to mark the said document. It held

that the said document is more than 30 years old, that stamp duty and penalty were paid thereon and under Section 90 of the Evidence Act, 1872, it can be marked. It observed that the marking of document is without prejudice to both parties and subject to proof and relevancy.

5. Challenging the same, this Revision is filed.
6. Although the learned counsel for petitioners sought to contend that portion of document is being torn and the document becomes inadmissible in evidence, a look at the photocopy of the document filed indicates that only a small portion on the top of page 3 is torn. It is not the contention of petitioners that the missed portion is the crucial portion having a bearing on the rights of the parties. Since the document in question is 30 years old document and validated by paying proper stamp duty and penalty, the respondents can be allowed to mark it of course subject to proof and relevancy.
7. Therefore, I do not find any merit in the Revision and it is accordingly dismissed. No costs.
8. As a sequel, miscellaneous petitions pending if any, shall stand closed.

JUSTICE M.S. RAMACHANDRA RAO

Date: 29-10-2015

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