

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

CRP.No.1244 of 2013

ORDER :

This Revision is filed under Article 227 of the Constitution of India challenging the docket order dt.26.11.2012 in O.S.No.3 of 2009 on the file of the Senior Civil Judge, Sircilla.

2. The petitioner herein is the 2nd defendant in the suit.

3. The 1st respondent/plaintiff filed the suit for partition of the suit schedule property against the petitioner as well as 2nd respondent, apart from the 3rd respondent, who died.

4. In the written statement the petitioner pleaded that her late mother (i.e., 3rd respondent/D1.) took her husband as *illatum* son-in-law and gave all the landed properties to her by executing an unregistered and insufficiently stamped document on 11.03.1994. The said document had, in fact, been impounded by the Collector under the Indian Stamp Act, 1899.

5. When the petitioner wanted to tender this document in evidence, the 1st respondent/plaintiff took objection to marking it alleging that no rights accrued to petitioner under that document and that 3rd respondent

intended to take the prospective husband of petitioner as *illatum* son-in-law by giving all her properties. It was further contended by 1st respondent that petitioner was not married by the date the said document was executed, and since it is not a full-fledged executed document it is inadmissible and irrelevant.

6. By order dt.26.11.2012, the Court below did not permit the document to be marked in evidence on behalf of DW.1 on the ground that it is inadmissible in evidence as well as irrelevant.

7. Challenging the same, the present Revision is filed.

8. Heard Sri M. Rajamalla Reddy, counsel for petitioner; and Sri K. Vinaya Kumar, counsel for respondents.

9. The counsel for petitioner contended that the Court below erred in not permitting petitioner to mark this document in her evidence having given a finding that by the date of execution of the document on 11.03.1994, the petitioner was not yet married; that according to the document, the 3rd respondent intended to perform the marriage of petitioner shortly, keep her husband at her house, upon which the petitioner and her husband were obligated to maintain her, subject to which all her properties would go to petitioner and her husband; that by

the date of execution of document no rights accrued to petitioner under it; that it is neither a deed of *illatum* adoption nor an executed contract, and the *illatum* adoption would take effect from the date the daughter and her future husband are taken to the house on the condition of giving properties.

10. On the other hand, although the counsel for 1st respondent sought to contend that the document in question is a gift deed which requires registration under Section 17 of the Registration Act, 1908, and that it is inadmissible in evidence on the ground that it is unregistered, I am unable to agree with the said submission.

11. Admittedly, by the date of execution of the document, the marriage of 2nd defendant/petitioner had not occurred and the document only contemplated that 3rd respondent intended to first perform the marriage of petitioner, keep the petitioner and her husband along with 3rd respondent with an obligation to maintain her, subject to which her properties would go to the petitioner and her husband. Therefore, since admittedly there was no *illatum* adoption by 11.03.1994, no rights flowed to petitioner under the said document. Therefore, it did not require registration and the reasoning of the Court below in this regard is correct, but its conclusion that “the document is inadmissible as well as irrelevant”, is not

supported by any valid reasons, and is clearly perverse and contrary to its own reasoning. Therefore, the impugned order cannot be sustained and it is accordingly set aside.

12. The Civil Revision Petition is allowed and the document dt.11.03.1994 is directed to be received in evidence during the examination of DW.1. No order as to costs.

13. As a sequel, miscellaneous petitions pending, if any, in this Revision shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 27.10.2015

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