

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

CIVIL REVISION PETITION No.2974 of 2015

ORDER:

The revision petitioners are plaintiffs in O.S. No.95 of 2009 on the file of the Court of the learned Senior Civil Judge, Tadepalligudem, West Godavari District. The said suit was filed for partition in respect of two items of property situated in R.S.No.118/4 of Pothavaram Village limits, West Godavari District, and in R.S. No.222/1 of Arinam Akkivalasa Village limits, Srikakulam District. According to the learned counsel for petitioners, even before the commencement of trial, the petitioners filed I.A. No.1480 of 2014 to receive the Registered Possessory Sale Agreement with General Power of Attorney dated 25.05.2007 for marking the same as exhibit. The said application was dismissed by the learned Senior Civil Judge, Tadepalligudem, by order dated 27.03.2015, observing as follows:

“10. The respondents submitted that the property in the document sought to be marked is different in the property claimed in the suit. A perusal of the properties claimed in the plaint and the properties in the alleged documents are different. The property sought for partition are two items situated in Pothavaram Village of Ananthapalli Sub Registry of Nallajerla Mandal and the properties in the alleged document are situated in Arinam Akkivalasa Village limits, Chipurupalli Mandal, Ponduru Sub Registry limits of Srikakulam District and their survey numbers are 118/2 for the first item and 222/1 for the second item. Whereas, the properties in the document sought to be marked are different as the properties are situated in Bhimadole. Merely because, the plaintiffs and some of the defendants are the General Power of Attorney Holders, it does not mean that they have right over the entire property of their executants and their Master Dakarapu Govindrajulu. The document sought to be marked is irrelevant, the petition is devoid of merits and liable to be dismissed.”

I have carefully perused the copy of plaint and there is no averment with regard to the document sought to be produced now. Even otherwise also, if the said document is available at the time of filing of suit itself, the petitioners should have been diligent in filing the said document at that time. No explanation is given except stating that the said document was not in the custody of second

plaintiff, but a certified copy was taken recently. If the plaintiffs were interested, the plaintiffs should have taken the certified copy of the same when the suit was filed in the year 2009.

In the above circumstances, the impugned order passed by the learned Senior Civil Judge, Tadepalligudem, West Godavari District, is correct, and this Civil Revision Petition is accordingly dismissed. There shall be no order as to costs.

The impugned order passed by the lower Court and confirmed in this Civil Revision Petition shall not be construed as expressing any opinion on the future conduct of parties with regard to the transaction mentioned in the said document.

Miscellaneous Petitions, if any, pending in this Civil Revision Petition shall stand closed.

A.RAMALINGESWARA RAO, J

30.11.2015

MVA

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Date: 30.11.2015

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