

THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

CIVIL REVISION PETITION NO.2106 of 2015

ORDER:

This revision is preferred by the defendants in the suit for partition and separate possession instituted by respondent Nos.1 to 3 herein. After the plaintiffs have pleaded their side of evidence, the 3rd defendant in the suit went into the box and he was examined as DW.1. During the course of his deposition on behalf of defendants, a document titled as 'Will' was sought to be marked. That was objected to by the plaintiffs on the ground that though the document is bearing title 'Will', but nonetheless, the contents of the document clearly disclose that it is attempted dispossession of immovable property and consequently, it is liable to be compulsorily registered and that the document having not been stamped and not registered, is inadmissible. On that objection, the learned trial Judge has examined the contents of English translation of the document offered for being marked. In that the executant has clearly traced that he has some ancestral land admeasuring Ac.19.09 guntas in survey No.21 and another extent of Ac.13.20 guntas in different survey numbers situated at Aghapally Village. Thereafter, it is has been observed in the document as under:

“..... I have transferred the same in favour my three sons..... Now the said three brothers shall have ownership rights. From today the said three brothers shall be the owners of the said property and shall cultivate jointly and amicably.....”

In view of the above content, the learned trial Judge has found that the document has dealt with transfer of immovable property in presentum and hence, the document cannot be treated as a Will, which normally tends to dispose of properties in future.

In that view of the matter, the Court arrived at a finding that the contents of the document bring out the true nature of the dispossession

of immovable property carried out therein. Hence, it is required to be compulsorily registered and since it was not sued on, the document held inadmissible in evidence. The learned counsel for the petitioner who tried to distinguish that title of the property in question has been still retained by the executant and there was no such transfer that has taken place, but, however, the recitals which I adverted to a little earlier make it clear that dispossession of the immovable property has taken place and hence, the document has rightly been treated by the trial Court as not a Will. I, therefore, do not find any error committed by the learned trial Judge in upholding the objection for marking the said document raised by the plaintiffs.

Accordingly, this civil revision petition is dismissed.

Consequently, miscellaneous petitions, pending in this petition, shall also stand dismissed. No costs.

JUSTICE NOOTY RAMAMOHANA RAO

24.06.2015

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