

THE HON'BLE SRI JUSTICE SANJAY KUMAR

CIVIL REVISION PETITION No.2186 OF 2014

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DATED: 12.03.2015

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Between:

Ecclesia Ministries Full Gospel Church,
Rep. by its Founding Pastor
Rev. Daniel D. Kalyanapu

.. Petitioner

And

Alice Cyriac and others

.. Respondents

THE HON'BLE SRI JUSTICE SANJAY KUMAR

CIVIL REVISION PETITION No.2186 of 2014

ORDER:

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This civil revision petition calls in question the order dated 19.06.2014 passed by the learned Senior Civil Judge, Jangaon Camp Court at Warangal, in I.A.No.51 of 2014 in O.S.No.263 of 2004.

The said I.A. was filed by the defendant in the suit under Order XIII Rule 6 C.P.C. seeking rejection of the documents marked as Exs.A4 to A7, A14 to A17, A19, A27 and A28 through P.W.3 on the ground that they were unregistered documents and were liable to stamp duty. By the order under revision, the trial Court dismissed the said I.A. Hence, the defendant is before this Court.

Perusal of the order under revision reflects that the trial Court was of the opinion that though some of the documents in question were compulsorily registerable, they could be marked in evidence as sufficient stamp duty and penalty had been paid thereon, in the light of the proviso to Section 49 of the Registration Act, 1908 (for brevity, 'the Act of 1908').

The suit, O.S.No.263 of 2004, was filed for declaration of title and for perpetual injunction. Taking note of the reliefs claimed, the trial Court was of the opinion that the documents in question could be marked in evidence for collateral purpose under the proviso to Section 49 of the Act of 1908 for the purpose of knowing the nature of the possession claimed. The trial Court also left it open to the defendant to raise objections during the hearing of the suit after completion of the trial.

Smt. S.A.V. Ratnam, learned counsel for the petitioner/defendant, would however contend that the trial Court erred in admitting the documents in evidence even for collateral purpose. She relied upon the judgment of this Court in **Golla Dharmanna v. Sakari Poshetty**^[1] in this regard. However, perusal of the said judgment reflects that this Court did not consider the scope of the proviso to Section 49 of the Act of 1908 therein. This judgment is therefore of no avail to the petitioner/defendant. Learned counsel also relied on the judgment of this Court in **Pariti Suryakanthamma v. Saripalli Srinivasa Rao**^[2]. However, that was a case where this Court found on facts that the purpose for which the compulsorily registerable document was sought to be marked in evidence was to prove title and held that the same cannot be treated as a collateral purpose falling under the proviso to Section 49 of the Act of 1908.

On the other hand, Sri C.A.R. Seshagiri Rao, learned counsel for the respondents/plaintiffs, pointed out that this Court in **Meda Anjamma and another v. Vikram China Veeraiah and others**^[3], relying upon the judgment of the Supreme Court in **Bipin Shantilal v. State of Gujarat**^[4], affirmed that objections relating to the marking or admissibility of documents should be decided at the last stage of the suit, except for objections raised as to deficiency of stamp duty. This judgment of the Supreme Court was also relied upon by the trial Court in the order under

revision.

In the totality of the above circumstances, as the trial Court has left the issue open by permitting the petitioner/defendant to raise objections during the hearing of the main suit, this Court is not inclined to interfere at this stage. It would be for the trial Court to decide as to whether any of the subject documents, which were compulsorily registerable in nature, can be looked into for a collateral purpose falling within the ambit of the proviso to Section 49 of the Act of 1908.

The civil revision petition is devoid of merit and is accordingly dismissed.

Pending miscellaneous petitions, if any, shall also stand dismissed. No order as to costs.

JUSTICE SANJAY KUMAR

12th March, 2015
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[\[1\]](#) 2013 (6) ALT 205

[\[2\]](#) 2010 (2) ALT 648

[\[3\]](#) 2006 (2) ALD 710

[\[4\]](#) (2001) 3 SCC 1