

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

C.R.P.No.4554 of 2014

ORDER:

Heard Sri V.Hari Haran, learned counsel for the petitioners and Smt. S.Jyothi, learned counsel for the respondent.

2. This Revision Petition is filed challenging the order dt.11-03-2014 in O.S.No.32 of 2009 of the Judge, Family Court-cum-Additional District Judge, Khammam.
3. An application I.A.No.268 of 2014 filed by the petitioners to permit them to lead secondary evidence in respect of photo copy of document dt.07-06-2013 has been dismissed by the Court below.
4. The petitioners contend that the original of this document is in the nature of agreement of sale and it was in the custody of one P.Balakishan Rao who is the Deputy Superintendent of Police, Khammam and he got the said document signed by 1st petitioner at the instance of the respondent and her husband and the said document was also witnessed by three other persons.
5. It appears that the said P.Balakishan Rao had appeared before the Court on the summons issued by the Court and unequivocally stated that no such agreement has been executed in his presence and he did not possess it.
6. The respondent therefore took a plea that in view of the evidence of P.Balakishan Rao, there is no point in the petitioners seeking to lead secondary evidence on the strength of the photo copy of the alleged document which does not exist.

7. The Court below accepted the plea of the respondent and dismissed the I.A. holding that the petitioners ought to have adduced evidence *prima facie* to show that the document in question was indeed in existence and its original was in possession of P.Balakishan Rao.
8. Learned counsel for the petitioners now submits that if opportunity is given to the petitioners, they will establish the factum of existence of the original of the document dt.07-06-2013 and its custody with the said P.Balakishan Rao.
9. Having regard to the said submission, the order dt.11-03-2014 in I.A.No.268 of 2014 in O.S.No.32 of 2009 is set aside and the said I.A. is remanded back to the trial Court with a direction to it to give the petitioners an opportunity to lead oral or documentary evidence in support of their plea that the original document dt.07-06-2013 was executed at the instance of P.Balakishan Rao in his presence and at the instance of respondent and her husband. This exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order.
10. The Civil Revision Petition is disposed of with the above directions. No costs.
11. As a sequel, the miscellaneous petitions pending, if any, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 22-09-2015

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