

HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN

Civil Revision Petition No.3180 of 2016

Order:

This revision arises out of the dismissal of an application taken out by the 3rd defendant in a suit for partition for summoning the Will Deed Register in the office of the Sub Registrar for the purpose of verifying whether the executant of the Will had affixed his thumb impression and whether it was his thumb impression or not.

2. Heard Mr. Kambhampati Ramesh Babu, learned counsel for the petitioner and Mr. V.S.R. Anjaneyulu, learned counsel for the 7th defendant in the suit.

3. The document in respect of which the petition for summoning the Register was taken out by the petitioner herein was a Will dated 07-3-1990. The suit was for partition filed in the year 1995. The Will in question Ex.B-45 was marked way back in 2003. In 2016, the present application was taken out by the petitioner/defendant No.3.

4. There are absolutely no merits in the present revision petition. The petitioner himself has contended in his Affidavit in support of the application that even according to the naked eye, the signatures do not tally. If that is so, the present petition for summoning the Register is wholly unnecessary. As a matter of fact, the law is very clear on the scope of Section 73 of the Indian Evidence Act, 1872.

5. Moreover, the question of finding out whether the thumb impression of the executants of the Will was available or not, does not arise at this stage. The Will has to be normally proved by a person setting up the same in accordance with Sections 67 and 68 of the Indian Evidence Act. Therefore, the present application is nothing but an abuse of the process of the Court to protract the suit for partition

which is already 20 years old. Therefore, the revision is dismissed. The Trial Court shall endeavour, not to make all previous orders directing the Court to dispose of the suit at an early date, dead-letters, but to dispose of the suit without entertaining any further applications, within a period of 3 (three) months from the date of receipt of a copy of this order.

The miscellaneous petitions, if any, pending in this revision shall stand closed. No costs.

V.RAMASUBRAMANIAN, J.

05th August, 2016.

Note:-

Issue C.C. in three days.

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05th August, 2016.
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