

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH**

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CIVIL REVISION PETITION No.3692 of 2015

Between:

M.R.Gangadhar

....Petitioner

and

G.Swarnamma and others.

....Respondents

JUDGMENT PRONOUNCED ON : 28.01.2016

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO :

1. Whether Reporters of Local newspapers : Yes
may be allowed to see the Judgments?
2. Whether the copies of judgment may be : No
Marked to Law Reporters/Journals?
3. Whether Their Ladyship/Lordship wish to : No
see the fair copy of the Judgment?

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THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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CIVIL REVISION PETITION No.3692 of 2015

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ORDER:

This Civil Revision Petition is filed against the order dated 22.08.2014 in I.A.No.714 of 2013 in O.S.No.535 of 2007 on the file of the learned Principal Senior Civil Judge, Tirupati.

The petitioner herein is the seventh defendant in O.S.No.535 of 2007

on the file of the learned Principal Senior Civil Judge, Tirupati. The said suit was filed by the first respondent herein seeking partition and separate possession of her share in the suit schedule property. The plaintiff's side evidence was closed and the defendants also examined D.W.4. After examination of D.W.4, the seventh defendant filed I.A.No.714 of 2013 seeking permission of the Court to issue summons to two witnesses - son of the attesor, and the Tahsildar, Tirupati Rural Mandal. It was stated in the affidavit filed in support of the application that the two attestors of the Will and scribe are no more, and the first witness is necessary to identify the signature of one of the attestors. The justification for the second witness was shown by stating that the old Survey No.336/3 correlates to Survey Nos.41/1 and 41/2.

The plaintiff filed a detailed counter stating that the petitioner earlier filed I.A.No.194 of 2012 to summon the attestors of the Will dated 11.11.1983 and the said application was allowed. Thereafter, batta was also paid. However, the Counsel for the seventh defendant filed a Memo on 27.03.2012 stating that they were not necessary. Now, the present application is filed stating that the attestors are no more and the son of one of the attestors has to be examined. There is nothing on record to show that the attestors are no more and D.W.4 also did not state in her evidence with regard to the presence of attestors. With regard to Survey Nos.41/1 and 41/2, it was stated that the Will dated 11.11.1983 contains the said survey numbers as well as Survey Nos.336/3, 335/5, 335/3, 335/6 and 336/2.

The trial Court, after considering the rival pleadings, held that the evidence of son of the attesor will not improve the situation of execution of the Will, as the Will, which was marked as Ex.B6, is a registered Will. With regard to survey numbers, it was stated that there was no pleading, and in the absence of such pleadings, no summons can be issued to the Tahsildar.

In view of the reasons given by the lower Court, this Court sees no ground to interfere with the order dated 22.08.2014. Further, it is submitted by the learned Counsel for the respondents that the plaintiff's arguments were concluded and it is coming up for the arguments of the defendants.

The Civil Revision Petition is, accordingly, dismissed. The

miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

(A.RAMALINGESWARA RAO, J)

28.01.2016
vs