

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

Civil Revision Petition No.4774 OF 2016

ORDER:

Heard both sides.

2. The impugned order of the lower Court in I.A.No.676 of 2015 in O.S.No.445 of 2009 dated 01.06.2016 is against allowing the registration extract of the so called will dated 26.10.1993. Undisputedly, it is a registered original will for which on proving the death of the testator, a certified copy of the will is obtained which is the public document within the meaning of Sections 74 to 77 of the Indian Evidence Act.

3. So far as receiving of the application at the request of the defendant under Order VIII Rule 1(A) of C.P.C. is concerned, for the earlier non-filing is not while in custody and the explanation is that later he came to know from the evidence through P.W.2 about he attested the so called will and therefrom verified and obtained certified copy in its filing. Thus, there is nothing wrong in its receiving but for while exhibiting in evidence if at all to raise any objection on admissibility, proof and relevancy, including as to the letting of secondary evidence and without foundation of original where it exists for law is fairly settled that other than stamp duty and registration, all objections are left open to decide ultimately.

4. Accordingly, the revision is disposed of by left open any objections while marking including by adducing secondary evidence of any requirement of foundation. No costs. Pending miscellaneous petitions, if any, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date:08.11.2016
b/o. vvr.