

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

C.R.P. Nos.1264 and 1267 of 2016

Between:

Smt. Tenneti Ajaya Kumari
... Petitioner

And

Chagantipati Surya Nirmala Devi @ Nirmala
... Respondent

JUDGMENT PRONOUNCED ON 11.03.2016

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THE HON'BLE SRI JUSTICE G. CHANDRAIAH

1. Whether Reporters of Local newspapers
may be allowed to see the Judgments? :
2. Whether the copies of judgment may be
marked to Law Reporters/Journals. :
3. Whether their Ladyship/Lordship wish to
see the fair copy of the Judgment? :

THE HONOURABLE SRI JUSTICE G.CHANDRAIAH

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C.R.P. No.1264 and 1267 of 2016

COMMON ORDER:

Since these revision petitions have been arose out of the same suit in O.S. No.97 of 2010, therefore, they are being disposed of by this common order.

The revision petitioner and the respondent herein are the plaintiff and the defendant, respectively.

CRP. No.1264 of 2016 has been filed aggrieved by the order dated 15.12.2015 passed in I.A. No.1241 of 2015 in O.S. No.97 of 2010 by the XI Additional District Judge, Krishna Gudivada. I.A. No.1241 of 2015 was filed seeking to recall DWs.1 and 2 for further cross examination, for the purpose of marking some documents and the same was allowed by the Court below. Assailing the same, CRP. No.1264 of 2016 has been filed.

CRP. No.1267 of 2016 has been filed aggrieved by the order dated 15.12.2015 passed in I.A. No.1967 of 2015 in O.S. No.97 of 2010 by the XI Additional District Judge, Krishna Gudivada. I.A. No.1967 of 2015 was filed seeking to receive certain documents and the said application was allowed by the Court below. Assailing the same CRP. No.1267 of 2016 has been filed.

Brief facts of the case are that the plaintiff filed the said suit seeking declaration and recovery of possession of plaint schedule property. It is also averred in the affidavit, filed on behalf of the plaintiff in the said suit, that she was examined as P.W.1 and in her evidence she categorically denied the execution of registered gift deed dated 10.11.1982 and stated that the same was executed by one Chagantipati Seetharatnam in favour of her husband Ch.Durga Prasad Rao, which is marked as

Ex.B-2. Unfortunately, by oversight, she did not examine the witness present at the time of execution of Ex.B-2 and the attestors of Ex.B-2 by name Tenneti Krishna Murthy and Tenneti Sambasiva Rao, who are own brothers of Chagantipati Seetharatnam, executant.

It is stated that both the attestors were present at the time of execution of Ex.B-2 but unfortunately, both the attestors are died very long back. Under the above circumstances, the burden is on the plaintiff to establish that Ex.B-2 is genuine and valid one. The D.W.1 is the eldest daughter of 2nd attestor, Tenneti Sambasiva Rao, The D.W.2 is the 3rd daughter of the 1st attestor of the Tenneti Krishna Murthy.

By mistake and oversight could not establish about the execution of Ex.B-2 by Changantipati Seetharatnam in the presence of two attestors. Therefore, it is very important to establish that the attestors signature of Tenneti Krishna Murthy and Tenneti Sambasiva Rao will be established through D.Ws.1 and 2 to prove the execution and genuine of Ex.B-2.

When the matter was posed for arguments, on behalf of the defendant, I.A. No.1241 of 2015 and I.A. No.1967 of 2015 in O.S. No.97 of 2010 have been filed seeking to reopen the defendant side evidence for the purpose of recall of DWs.1 and 2 and sought to condone the delay for filing certain original documents and to receive the same and mark as exhibits, respectively, on behalf of the defendant. The Court below vide its impugned orders allowed the said applications. Assailing the same, the petitioner/plaintiff filed the present revision petitions.

The learned counsel appearing for the revision petitioner, *inter alia*, submits that the said applications have been filed only with an intention to protract the matter.

As could be seen from the impugned orders, it is clear that I.A. No.1241 of 2015 was allowed with an observation that a chance is given to the defendant to recall DWs.1 and 2 for further examination. In this regard, I am of the view that if a chance is given to the defendant to recall D.Ws.1 and 2 no prejudice would be caused to the plaintiff. Further, I.A. No.1967 of 2015 was allowed by receiving the documents subject to proof and relevancy. Therefore, in this regard also, no prejudice would be caused to the plaintiff.

In that view of the matter, having regard to the facts and circumstances of the case, I am of the view that the said applications have been filed only with an intention to protract the matter is not sustainable and therefore, I do not see any reason to interfere with the impugned orders as they do not suffer from any legal infirmity and therefore, these revision petitions are liable to be dismissed. Accordingly, these revision petitions are dismissed.

As a sequel, miscellaneous petitions, if any, stands closed.
There shall be no order as to costs.

JUSTICE G.CHANDRAIAH

Date: 11.03.2016
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