

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

Civil Revision Petition No.2772 of 2012

ORDER:

This Civil Revision Petition under Article 227 of the Constitution of India by the unsuccessful respondent/defendant is directed against the orders dated 08.12.2011 of the learned Principal Senior Civil Judge, Tenali passed in I.A.no.789 of 2010 in O.S.no.202 of 2006 filed by the plaintiffs under Section 151 of the Code of Civil Procedure, 1908 requesting to furnish certified copy of the disputed Will.

2. I have heard the submissions of the learned counsel for the revision petitioner/defendant ('the defendant', for brevity) and the learned counsel for the respondents/plaintiffs ('the plaintiffs', for brevity). I have perused the material record.

3. To begin with, it is to be noted that the plaintiffs sought for grant of the certified copy of the Will from the Court below on the ground that on the substitution of the Will with a certified copy, the disputed Will has to be sent to a Finger Print expert for obtaining the necessary opinion since the plaintiffs are strongly disputing the genuineness of the said Will and are contending that it is a forged Will. The defendant/revision petitioner filed a counter affidavit stating that the Will was kept in a sealed cover by the trial Court and as such, the plaintiffs are not entitled to obtain certified copy of the Will.

4. Having regard to the facts and submissions made before it and by following the ratio in the decision in **V.Hanumantha Rao v. Inder Singh**^[1], the trial Court had allowed the petition of the plaintiffs and held that they are entitled to have the certified copy of the disputed Will though it is kept in a sealed cover for the purpose of safety.

5. It is contended on behalf of the defendant that the trial Court had committed a mistake in holding that the plaintiffs are entitled to have a certified copy of the disputed Will, which is kept in a sealed cover and that the

ratio in the decision (supra) is not applicable to the facts of the instant case. However, the learned counsel for the plaintiffs supported the orders of the Court below. As per procedure and rules of practice, all parties including the defendants shall serve on the other side a copy of each of the documents they intend to rely upon before filing such documents into Court, unless otherwise ordered by the Court. It is not the case of the defendant herein that a copy of the Will or a copy of the photostat copy of the Will filed into Court is served upon the plaintiffs. The plaintiffs, who are not supplied with a copy of the Will filed by the defendant, are entitled to obtain a certified copy of the said Will. Coming to the aspect as to whether the certified copy of the Will, which is not exhibited, can be granted, it is trite to note that in the decision relied upon by the learned counsel for the plaintiffs (supra), this Court had held that in the absence of any express rule prohibiting grant of certified copies, the Court would not be justified in refusing to grant certified copies of the documents and that so long as the documents are in the custody of the Court, whether they are marked as exhibits or not, the Court is bound to grant certified copies thereof provided those are not documents, the certified copies of which cannot be granted. Viewed thus, this Court finds that there are no impediments either under facts or in law for granting a certified copy of the Will to the plaintiffs.

6. In the light of the facts and for the reasons assigned, this Court is of the well considered view that merely because the Will is kept in a sealed cover, for reasons of safety, the request of the plaintiffs to grant a certified copy of the Will cannot be negated, as rightly held by the Court below. It is needless to state that the certified copy as ordered can be granted under the supervision of the Presiding Officer of the Court after taking necessary care about the safety of the Will and by directing to keep the Will in a sealed cover after granting the certified copy.

7 In the result, the Civil Revision Petition is dismissed. No costs.

Miscellaneous petitions, if any, pending in this revision shall stand closed.

M. SEETHARAMA MURTI, J

13th July, 2016
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