

THE HON'BLE SRI JUSTICE SANJAY KUMAR

CIVIL REVISION PETITION NO.2120 OF 2016

ORDER

The petitioner is the plaintiff in O.S.No.880 of 2011 on the file of the learned Special Sessions Judge for Trial of Cases under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989-cum-VII Additional District and Sessions Judge at L.B.Nagar, Ranga Reddy District. This civil revision petition was filed by him aggrieved by the order dated 15.02.2016 passed by the trial Court upon his Memo filed on a question of law.

The suit, O.S.No.880 of 2011, was filed by the petitioner-plaintiff for a declaration that he was the original and only assignee of the suit schedule property and for a perpetual injunction restraining the 1st respondent-1st defendant from claiming or withdrawing the *ex gratia* to the tune of Rs.22,75,000/- paid for acquisition of the suit schedule property. During the course of the trial of the suit, at the time of marking of documents through D.W.1, the counsel for the petitioner-plaintiff filed the subject Memo stating that the document (Vaangmoola Patram) produced by the other side has to be treated as a family arrangement and could not be marked in evidence as it was unregistered and unstamped. By the order under Revision dated 15.02.2016, the trial Court rejected the objection raised under the subject Memo and dismissed the same.

Perusal of the document in question reflects that it is titled 'Vaangmoolam'. The true translation of this word would mean a 'statement'. Significantly, the word 'patram' is not used in the document. This document was signed by the petitioner-plaintiff and his two sons before the Mandal Revenue Inspector, Ibrahimpatnam Mandal, Ranga Reddy District, confirming on oath that the members of the families of the two brothers, the petitioner-plaintiff and the husband of the 1st respondent-1st defendant, had no objection to mutation being carried out

in the revenue records in the name of the 1st respondent-1st defendant in respect of the land assigned under the Laoni Patta No.300/26, pertaining to Ac.3.20 guntas of land, viz., the suit schedule property. This document was sought to be marked in evidence by the 1st respondent-1st defendant and at that point of time, the petitioner-plaintiff raised an objection on the ground that it was neither registered nor stamped and could not therefore be marked in evidence. The reply of the 1st respondent-1st defendant to this objection was to the effect that the document in question was only a statement recorded by the revenue authorities and was not a transfer deed or a transaction which required registration or payment of stamp duty. Further, the 1st respondent-1st defendant specifically stated in her counter that as to whether this document embodied a family arrangement or not was a matter which has to be decided at the time of hearing of the suit.

However, perusal of the order under revision reflects that the trial Court rendered and recorded therein a categorical finding that this document embodied a family arrangement but concluded that, in the facts and circumstances of the case, the document did not require registration or payment of stamp duty.

As the marking of the document in question was objected to only on the ground that it required registration and payment of stamp duty, this was the only point that had to be looked into by the trial Court at this stage. On the face of it, the said document embodied a request to the revenue authorities, and was made before them on oath, by the petitioner-plaintiff and his sons to the effect that there was no objection to entries being made in the revenue records in favour of the 1st respondent-1st defendant in relation to the suit schedule property.

Though Sri Vijay B.Paropkari, learned counsel for the petitioner, would contend that this is the only document on the basis of which the 1st respondent-1st defendant is claiming rights over the suit schedule property, this is an aspect which would have to be looked into by the trial

Court during the suit proceedings and the same cannot be answered or decided at this stage. As the 1st respondent-1st defendant herself stated before the Court that the nature of this document and as to whether it constituted a family arrangement would have to be decided in the suit, the premature finding of the trial Court on this issue was wholly uncalled for and the same is accordingly set aside. In the event the trial Court comes to such a conclusion while adjudicating the suit, it would always be open to it to take appropriate measures basing on that finding. At this stage, all that was necessary for the trial Court to do was to mark the document subject to the objection raised and consider the same at the appropriate time. The order under revision is accordingly modified to this extent and the trial Court is directed to take steps as indicated above.

The civil revision petition is disposed of accordingly. Pending miscellaneous petitions shall stand closed in the light of this final order. No order as to costs.

Svv

AUGUST, 2016

SANJAY KUMAR, J