

THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

CIVIL REVISION PETITION NOs.2958 & 2974 of 2016

COMMON ORDER:

The plaintiffs in a suit for declaration of title and injunction, have come up with the present civil revision petitions challenging two independent orders passed by the trial Court dismissing their applications for reopening the suit and for summoning the attestor and scribe of a document marked by the defendant as Ex.B.2.

Heard the learned counsel on both sides.

The suit was one for declaration of title and for injunction. The defence set up by the respondent/defendant was that under Ex.B.2- sale deed, dated 30.09.1996, the plaintiffs themselves had sold the property in his favour. This was the plea set up by the respondent/defendant even in the written statement and hence he has marked Ex.B.2.

After the marking of Ex.B.2, the petitioners have taken out an application for reopening the case and summoning the attestor and scribe of Ex.B.2. The reason as to why the petitioners want to summon them is to prove that the real purport of Ex.B.2 was not to sell the property, but only to create a security in favour of the petitioners. It means the petitioners want to prove something contrary to the contents of Ex.B.2. Since it is not permitted under Section 92 of the Indian Evidence Act, 1872, dismissal of the application by the trial Court was in order. Hence the Civil Revision Petitions are dismissed.

As a sequel, miscellaneous petitions pending, if any, shall also stand closed.

JUSTICE V. RAMASUBRAMANIAN

15th July, 2016
Js.