

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

Civil Revision Petition Nos.2705 and 2960 of 2015

Date: 06-01-2016

Between:

M. Ammannamma

.. Petitioner

AND

The State of Andhra Pradesh, represented by
its District Collector, Chittoor District and another

.. Respondents

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

Civil Revision Petition Nos.2705 and 2960 of 2015

COMMON ORDER:

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The plaintiff in O.S.No.171 of 2011 on the file of Principal Junior Civil Judge, Tirupathi, is the petitioner herein. The said suit was filed seeking permanent injunction restraining the defendants from interfering with the agricultural land of an extent of Ac.3.50 cents together with cement rings with 5 HP electric motor and pumpset and a farm shed in Survey No.458, Tiruchanoor village, Tirupathi Rural Mandal, Chittoor District. The petitioner filed 15 documents along with his affidavit in lieu of chief-examination, but he did not mark the documents at S.Nos.1 to 3 in his evidence. The cross-examination of PW.1 was completed and his evidence was closed. At that stage, he filed I.A.Nos.957 of 2014 and 958 of 2014 seeking to reopen the suit for the purpose of recalling PW.1 for marking the said documents. A counter was filed in the applications stating that the documents are unregistered documents and cannot be marked even if stamp duty and penalty

was already paid. Since the application was filed for marking of those documents only, there is no need for reopening the suit for the purpose of recalling PW.1 to mark those documents. The trial Court dismissed the applications on the ground that the petitioner did not pay stamp duty and penalty on the document on which he intends to rely. Even the said documents are impounded as unregistered sale deeds, they cannot be received in evidence. Accordingly, it dismissed the applications holding that there is no necessity to recall PW.1 for marking of documents.

In the present case, in spite of service of notice on the respondents, none appeared on behalf of the respondents.

The present applications are filed while the examination of witnesses for the plaintiff was going on. It is premature to hold the admissibility and relevancy of the documents, which are sought to be marked by PW.1, for which purpose, the present applications are filed. The Court should consider the stage of the suit and give opportunity to the plaintiff to put forward his case by adducing his oral and documentary evidence. If any objection is taken by the defendants with regard to marking of documents, the Court should decide that issue then and there. But at the stage of recalling the witness for the purpose of marking the documents, the Court should not undertake the responsibility of the other side and decide about the admissibility of the documents. The stage has not yet come.

In the circumstances, the applications in I.A.No.957 of 2014 and I.A.No.958 of 2014 in O.S.No.171 of 2011 are allowed by setting aside the order dated 10-06-2015. It is clarified that by allowing these applications, the marking of those documents are not allowed automatically and the right of the other side to raise an

objection with regard to marking of the documents is kept in tact.

The Civil Revision Petitions are allowed accordingly. No costs. As a sequel thereto, miscellaneous petitions, if any, pending shall stand closed.

A. RAMALINGESWARA RAO, J

Date: 06-01-2016

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