

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

CIVIL REVISION PETITION NO.683 of 2016

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ORDER:

This civil revision petition is filed under Article 227 of the constitution of India, challenging the order dated 20.11.2015 passed in I.A.No.65 of 2014 in O.S.No.187 of 2009 by the Additional Junior Civil Judge, Miryalaguda.

The petitioner is the plaintiff. She filed the suit against the respondents/defendants for grant of perpetual injunction contending that her husband is the owner of the suit schedule property and she inherited the same after the demise of her husband. The defendants are land owners in the Western side of the suit scheduled property. As they were interfering with her possession and enjoyment of the property, she filed the suit. The defendants filed written statement along with an unregistered simple sale deed dated 10.06.1965 alleged to have been executed by the husband of the petitioner. The petitioner filed the present I.A. under Section 45 of the Indian Evidence Act to send the said simple sale deed dated 10.06.1965 to Telangana Forensic Science Laboratory, for comparison with admitted signatures by the expert to prove that the alleged simple sale deed dated 10.06.2016 was not executed by her husband.

It is the contention of the learned counsel for the petitioner that though the respondents/defendants reported no objection for sending the said document to the expert's opinion, the Court below erroneously dismissed the application observing that the document sought for comparison is filed by the defendants, but not by the plaintiff. Hence the petitioner filed the present revision petition.

Heard learned counsel for the petitioner and perused the material available on record.

As rightly observed by the learned Additional Junior Civil

Judge, it is for the defendants to bring the document on record at the time of adducing evidence, at which time the plaintiff would have ample opportunity to raise all the objections with respect to the said document. Further, as the plaintiff is claiming her right independently it is for her to make out a case in her evidence and if the defendants are relying on the document dated 10.06.1965, it is for them to establish the same. In that view of the matter, dismissal of I.A is justified. However, the right of the parties to approach the Court at an appropriate stage is not fore closed by the Court below.

Accordingly the Civil Revision Petition is dismissed. As a sequel, pending miscellaneous petitions, if any, shall stand closed.

CHALLA KODANDA RAM, J.

12th February, 2016
Js.