

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

CIVIL REVISION PETITION NO.5163 OF 2015

ORDER:

This revision, under Article 227 of the Constitution of India, is preferred against the order passed by the Court below in I.A. No.1001 of 2015 and batch dated 03.11.2015. I.A. No.1001 of 2015, was filed under Order 19 Rule 1 CPC, to reopen the petitioner-plaintiff's evidence, which was closed on 27.08.2014, and I.A.Nos.1002 and 1003 of 2015 were filed to file the enclosed two petitions (1) to impound the Sl. No.2 document and (2) to summon the witness to cause production of Sl. No.5 document before the Court below to be marked as exhibits on behalf of the plaintiff.

It is the petitioner's case that, under threat and coercion, his father-in-law (the 2nd respondent herein) had obtained a power of attorney from him and, based on the said power of attorney, he had executed a gift deed in favour of the 7th respondent. The petitioner herein filed O.S. No.38 of 2010 seeking cancellation of the said gift deed. After completion of his evidence on 27.08.2014, and after the evidence adduced on behalf of the defendants was completed, the present application was filed on 18.02.2015.

In the order under revision, the Court below observed that it was an admitted fact that, by virtue of the authorization given under the General Power of Attorney vide document No.119/2010 dated 30.09.2010, the 2nd respondent had executed a registered gift deed in favour of the 7th respondent in respect of the subject property; it was the case of the petitioner that the said document was obtained under threat, coercion or undue influence; the presence of the Sub-Registrar, whose evidence was sought for by the petitioner, would not in any way add anything useful to the case of the petitioner who had, himself, admitted that the document was executed through the 2nd respondent in favour of the 7th respondent; the contention that the power of

attorney was obtained under coercion or undue influence was required to be decided basing on factual circumstances; the petitioner's plea to issue summons to the Sub-Registrar, Guntur to adduce evidence, and to cause production of the document, was not tenable under law; the contention that the unregistered lease deed dated 08.12.2009, executed in favour of Sri V. Veera Raju, should be sent to the District Registrar for impounding, and collecting penalty and stamp duty, was not the subject matter of the suit; the entire case was based on the admitted document i.e., registered gift deed dated 04.10.2010; and these petitions were filed only to drag on proceedings.

Sri M. Shiva Kumar, Learned Counsel for the petitioner, would submit that, as the original power of attorney was not filed in Court and only a photostat copy thereof was enclosed along with the plaint, it was necessary for the Registrar to be summoned to cause production of the register wherein details of registration of the power of attorney are recorded; no prejudice would be caused to the respondents if the Registrar is directed to cause production of the register; as the entire case is based on the general power of attorney, it is just and necessary that the Registrar be summoned to cause production of the register containing details of registration of the power of attorney, and the Court below erred in presuming that the petitioner desired the Registrar to give evidence.

The case of the petitioner is that, by using the power of attorney registered vide document No.119/2010 dated 30.09.2010, the 2nd respondent had executed the gift deed in favour of the 7th respondent (son of the plaintiff). As the very basis, for execution of the gift deed by the 2nd respondent to the 7th respondent, is the power of attorney, its existence has not been, and cannot be, disputed. As has been rightly observed by the Court below the question whether the power of attorney was obtained by threat, coercion or undue influence was required to be examined on the evidence on record, and summoning

the Registrar to cause production of the register, wherein details of registration of the power of attorney are recorded, is of no avail. The Suit relates to the year 2010, and this application was filed before the Court below only on 18.02.2015, after evidence on both sides was completed. The Court below has rightly held that the petitions were filed only to drag on proceedings.

The jurisdiction which this Court exercises, under Article 227 of the Constitution of India, is supervisory and not appellate; and, save patent illegality, no interference is called for. The order of the Court below does not suffer from any such infirmity warranting interference under Article 227 of the Constitution of India. The Civil Revision Petition fails and is, accordingly, dismissed. The miscellaneous petitions pending, if any, shall also stand dismissed. No costs.

RAMESH RANGANATHAN, J

Date: 07.01.2016.
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