

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

CIVIL REVISION PETITION No.4324 of 2016

ORDER:

The petitioner herein is the defendant in O.S.No.283/2015 on the file of Principal Junior Civil Judge, Chirala. The respondents-plaintiffs filed the said suit seeking partition and the petitioner filed his written statement. In the written statement, the petitioner set up a plea of Will and claimed title. The plaintiffs filed I.A.No.622/2016 seeking a direction to the petitioner herein for causing production of unregistered Will dated 16.02.2005. When the said application was allowed by order dated 03.06.2016, challenging the same the present Civil Revision Petition is filed.

As stated above, the suit was filed for partition claiming half share in the schedule property and the petitioner herein filed his written statement taking a specific plea that his father by name Ramisetty Venkateswarlu during his lifetime executed a Will on 16.02.2005 in a sound disposing state of mind. In spite of taking such plea in the written statement, the petitioner herein did not enclose a copy of the Will and in those circumstances, the plaintiffs filed the application in I.A.No.622/2016 seeking a direction for production of the Will. The petitioner took up a plea that his father, after executing the Will, entrusted the same to one Chunduri Anjaneyulu, who is one of the attestors of the Will. He also

stated that he is taking separate steps for causing production of the said Will in support of his case. When that was the position, the Court below could not have insisted for production of the Will as the rights of parties would be decided on the basis of pleadings and evidence. No party can be forced to adduce evidence in support of the pleadings.

In the above circumstances, the order dated 03.06.2016, directing the petitioner herein to produce the Will dated 16.02.2005 said to have executed by Ramisetty Venkateswarlu in favour of the petitioner, is set aside and it is left to the parties to take steps as are open to them during trial of the case and argue on the basis of evidence available.

Accordingly, this Civil Revision Petition is allowed by setting aside the order dated 03.06.2016 in I.A.No.622/2016. No order as to costs. Miscellaneous Petitions pending, if any, shall stand closed.

A.RAMALINGESWARA RAO, J

28.10.2016
MVA