

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CIVIL REVISION PETITION Nos.1477, 1479 and 1489 of 2017

COMMON ORDER:

These three Civil Revision Petition Nos.1477, 1479 and 1489 of 2017 are filed, under Article 227 of the Constitution of India, by the respondent No.7 in S.O.P. No.19 of 2012 on the file of the First Senior Civil Court, City Civil Court, Hyderabad, against the separate orders dated 13.2.2017 dismissing I.A. Nos.143, 70 and 69 of 2017 respectively.

2. Since the impugned orders arose out of one S.O.P., and the parties to the civil revision petitions are one and the same, this court is inclined to dispose of these civil revision petitions by this common order.

3. Heard the learned counsel for the petitioner.

4. A perusal of the record reveals that respondent Nos.1 to 3 filed S.O.P. No.19 of 2012, under Section 372 of the Indian Succession Act, on the file of the First Senior Civil Court, City Civil Court, Hyderabad, against petitioners and respondent Nos.4 to 9. It is the case of the petitioner that respondent Nos.1 to 3 are not entitled to claim bank deposits belong to S.Satyanarayan Yadav. The petitioner and respondents are children and grand-children of S.Satyanarayan Yadav. It is his further case that S.Satyanarayan Yadav, during his life time, executed Will dated 16.1.2009 bequeathing several properties, which include the Bank deposits, in favour of the petitioner. The parties to the S.O.P., have adduced evidence on their respective sides. After hearing the arguments on behalf of both the parties, on 22.12.2016, the trial court reserved

the matter for judgment. At that stage, the petitioner filed (1) I.A.No.143 of 2017 under Order VIII Rule 1A(3) of CPC to receive the registered sale deed document No.1899 of 1966 dated 04.8.1966, (2) I.A. No.70 of 2017 under Order XVIII Rule 17 of CPC to recall the petitioner (who was examined as R.W.4) for the purpose of marking the registered sale deed document No.1899 of 1966 dated 04.8.1966; and (3) I.A. No.69 of 2017 under Section 151 of CPC to reopen the respondents' side evidence. The trial court, after affording reasonable opportunity to both the parties, dismissed the Interlocutory Applications. Hence, the present revision petitions.

5. The contention of learned counsel for the petitioner is two fold: (1) the trial court failed to consider that the sale deed document No.1899 of 1966, dated 04.8.1966, will throw some light on the controversy involved in the case, and (2) the trial court dismissed the Interlocutory Applications on erroneous grounds.

6. I have carefully perused the affidavits filed in support of the petitions. It is the case of the petitioner that recently he traced out the sale deed dated 04.8.1966, which bears the signature of the testator-S.Satyanarayan Yadav. It is his further case that if the sale deed is received the court can compare the signature of the testator on the Will dated 16.1.2009 with signature on the sale deed. There is no mention in the affidavits the date on which the petitioner traced out the sale deed dated 04.8.1966.

7. It is needless to say that it is the duty of the propounder of the Will to dispel the suspicious circumstances surrounding the execution of the Will. A Will is an attestable document, which can

be proved by examining at least one of the attestors. At the time of arguments, learned counsel for the petitioner submitted that one of the attestors of the Will was examined. Even if the proposed document is received, the same will not throw any light on the controversy involved in the S.O.P. The Will is dated 16.1.2009 whereas the registered sale deed is dated 04.8.1966. For the reasons best known, the petitioner did not choose to examine the person, who is acquainted with the hand-writing of the testator-S.Satyanarayan Yadav. The petitioner filed the present Interlocutory Applications when the S.O.P. was reserved for judgment. If this type of petitions is allowed, certainly it would amount to encouraging the litigant public to file the petitions even after the judgment is reserved. The trial Court has assigned reasons much less cogent and valid reasons while dismissing the Interlocutory Applications. The findings recorded by the trial court are basing on material available on record. I am fully endorsing the findings recorded by the trial court. There is no illegality, irregularity or impropriety in the orders passed by the trial court warranting interference of this court.

8. Accordingly, the civil revision petitions are dismissed. Miscellaneous petitions, if any pending in these petitions shall stand closed.

T.SUNIL CHOWDARY, J

March 22, 2017.

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