

**THE HONOURABLE SRI JUSTICE M.S. RAMACHANDRA RAO**

**CRP.No.3860 of 2017**

**ORDER :**

This Civil Revision Petition is filed challenging the order dt.14.06.2017 in O.S.No.9 of 2011 on the file of Principal Junior civil Judge, Palakol, by which the Court declined to mark an unregistered relinquishment deed on behalf of the defendants.

2. The respondents/plaintiffs filed suit OS.No.9 of 2011 against the petitioners/defendants for declaration that the black marked “AB” wall in the plaint plan exclusively belongs to them, and that petitioners have no right over the same and for a mandatory injunction directing the petitioners to remove the pipes, nails and wooden racks from the said AB wall.

3. Counter claim is made by the petitioners for declaration that E1, J1 i.e., Red marked portion shown in the plaint plan in an extent of 3 sq.yards exclusively belongs to petitioners 1 and 2.

4. During the course of evidence, the petitioners/defendants wanted to mark an unregistered relinquishment deed allegedly executed by the 1<sup>st</sup> respondent on 27.04.2003, which was even got impounded and proper stamp duty was paid along with penalty in the office of District Registrar, Bhimavaram.

5. The respondents objected to the same on the ground that the said document being unregistered, it cannot be admitted in evidence.

6. Though counsel for the petitioner contended in the Court below that he intends to mark it only for collateral purpose, the Court below did not permit him to do so.

7. Assailing the same, this CRP is filed.

8. Counsel for the petitioners contends that petitioners intended to rely upon the document to show that the 1<sup>st</sup> respondent has relinquished his interest in the subject property. He also cited judgment reported in *Chikkala Ramulu v. Vaddadi Atchiyamma and others*<sup>1</sup>.

9. Under proviso to Section 49 of Registration Act, 1908, an unregistered document can be admitted only for collateral purpose but not for main purpose.

10. Hence, the purpose for which the petitioners wish to mark the document is thus not a collateral purpose but it is the main purpose for which the document in question was executed. So the said document cannot be said to be marked for collateral purpose.

11. In the decision cited by the learned counsel for the petitioner, it is stated as under:

“Once Section 49 of the Act speaks a document compulsorily registerable even not registered can be admitted for collateral

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<sup>1</sup> 2017 (3) ALT 176

purpose and once that is sought, the lower Court went wrong in rejecting the request. It is, in fact, premature even to say what is collateral purpose but for left open to decide ultimately as to what is collateral purpose by marking subject to objection on admissibility. It is because character of possession from the transaction of sale or gift or lease or the like though cannot be let in from the contents of the document as if a collateral purpose from what is laid in *K.B.Shah* (3 supra) and reiterated in *S.Kaladevi* (4 supra); however when character of possession is different from collateral purpose to show only possession without going into the contents of the documents as to character of possession, it can be admitted for collateral purpose to show simply in possession”

12. Having so observed, the Court permitted marking of the document for collateral purpose, subject to admissibility and proof; and observed what is the collateral purpose is ultimately to be decided by the Court.

13. The said judgment cannot be come to the aid of petitioners since petitioners have categorically stated now as to the purpose for which they intend to mark the said document in evidence and the said purpose is definitely not a collateral purpose and it is clearly the main purpose.

14. Therefore, I find no error of jurisdiction in the order passed by the Court below warranting interference under Article 227 of Constitution of India.

15. Accordingly, this Civil Revision Petition is dismissed. No costs.

15. Miscellaneous applications, pending if any, shall stand closed.

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**JUSTICE M.S.RAMACHANDRA RAO**

Date: 04-08-2017  
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