

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

Civil Revision Petition Nos. 1095 and 1112 of 2017

Common Order:

These two Civil Revision Petitions are being disposed of by this common order, as they arise out of I.A. Nos.1541 and 1542 of 2016 in O.S.No.269 of 2012.

After completion of the evidence of the plaintiff, the plaintiff filed those applications seeking production of General Power of Attorney and for recalling him as PW.1 for further examination. A counter affidavit is filed opposing the said applications. The trial Court, by its order dated 23.01.2017, allowed the applications with the following observations.

"7. Point:- (a) On hearing both sides, I perused the General Power of Attorney, which was issued to the plaintiff-Rama Rao jointly by his sons B. Srinivasa Rao and Mallikarjuna Rao stating that they are joint owners of some agricultural lands in S.No.154/4 of Pernametta village, which was in two bits. There is Donka Road in S.No.117 of Pernametta village at east of their land. Since they are away from the village, their father has been looking after the land affairs and that they have no conflict of interest with their father. In that regard, they authorized their father to take any steps and to defend the land from any trespassers or by any others and any action taken by their father is deemed to be taken by them also.

(b) Admittedly, this GPA is of the year 2016, but the plaintiff claimed that since the defendant alleged about the right of his sons in the suit land, there is every likelihood of denying his own right independently and hence, he obtained a GPA, from his sons in order to show that there was no conflict among them. Though it is not much relevant in this suit in which damages were claimed from defendants by plaintiff, admittedly, the sons of plaintiff are found having right in the same land under which damages were claimed by the plaintiff. In these circumstances, relevancy of this document cannot be ruled out though it is not much important to decide the suit of plaintiff. The GPA is a notarized one filed by plaintiff, as such, it is admissible in evidence and no prejudice that would be caused to the defendant in the suit by allowing this document, which is filed for collateral purpose only in order to show the right of the sons of plaintiff. Accordingly, the point is answered.

8. In the result, these petitions are allowed to receive document and to recall the petitioner/plaintiff to mark the same but conditionally that PW.1 shall present to further examine himself by next date of adjournment. No costs. Call on 31.01.2017."

Challenging the same, the present Civil Revision Petitions are filed by the first defendant.

Learned counsel for the petitioner herein submits that the suit was initially filed by the plaintiff without having title to the land and after completion of evidence now a document, General Power of Attorney, is obtained in order to cover the lapse and it should not be allowed.

It is clear from the affidavit filed in support of the applications itself that due to the question put to the plaintiff in the cross-examination, it has become necessary for the plaintiff to obtain the General Power of Attorney from his sons and accordingly he obtained the General Power of Attorney and filed the applications. The trial Court in the above order observed that the document was allowed only for collateral purpose and no prejudice is caused to the petitioner herein by allowing the said applications.

In the circumstances, both the Civil Revision Petitions are dismissed, as this Court does not find any error of law in the exercise of jurisdiction by the trial Court. However, it is always open to the petitioner herein to take all pleas available to him in the main suit. There shall be no order as to costs.

As a sequel thereto, the miscellaneous petitions pending, if any, in these Civil Revision Petitions shall stand closed.

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A. RAMALINGESWARA RAO, J

Date: 30.06.2017  
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