

HON'BLE SRI JUSTICE CHALLA KODANDA RAM

CIVIL REVISION PETITION Nos.5278 and 5279 of 2012

Date 17.08.2017

CRP.NO.5278 of 2012

Between:

Karlapudi Satya Krishna Vara Prasada Rao and others.

... Petitioners

AND

Bode Prasad and others.

.....Respondents

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Karlapudi Satya Krishna Vara Prasada Rao and others.

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HONOURABLE SRI JUSTICE CHALLA KODANDA RAM
CIVIL REVISION PETITION Nos. 5278 and 5279 of 2012
COMMON ORDER:

These two Civil Revision Petitions arise out of common order dated 12.07.2012 passed in I.A.Nos. 159 and 160 of 2012 in O.S.No.484 of 2012 by the IV Additional Senior Civil Judge, (FTC), Vijayawada.

While I.A.No.159 of 2012 is filed to recall PW.6 for the purpose of marking registered sale deed dated 04.09.1971 executed by Bode Venkataramaiah, his son and grandsons in favour of Borra Venkataramaiah, I.A.No.160 of 2012 is filed to receive original registered sale deed dated 04.09.1971 executed by Bode Venkataramaiah in favour of Borra Venkataramaiah.

Both I.As. were disposed by the Court below observing as under:

“No doubt, the plaintiffs can mark the said original registered sale deed as a specimen sale deed to disprove the will set up by defendants by sending those documents to the expert, but it has to be done in a proper way and documents has to be proved before Court either by examining the attestors or the author of the document. Admittedly, there are two attestors, one scribe and if the vendee under the registered sale deed is no more, the plaintiffs can examine legal heirs of vendee and can mark the same before Court, and if it is not practicable they can as well summon the original register from the registrar office, then it can be said, the document was received from the proper custody and it can be used for comparison, therefore, in view of the above said procedural defects and objections raised by defendants, these two petitions cannot be allowed and they can be disposed of with the following observations and directions:

In the result I.A.No. 159 of 2012 in O.S.No.484 of 2012 and I.A.No. 160 of 2012 in O.S.No.484 of 2012 are hereby disposed of with

a direction to the plaintiffs to mark the registered sale deed dated 04.09.1971 either by examining the attestors or the vendee under the document and if vendee is no more by examining legal representatives of the vendee so as to mark the said registered sale deed in this suit, and also plaintiffs can adduce any other independent oral or documentary evidence by way of rebuttal evidence instead of PW.6 whose evidence is nothing but replica of PWs.1, 2 and 5.”

A reading of the order, in toto, would disclose that the order, in I.A.No. 159 of 2012, stands rejected, though not specifically stated, as the Court below while permitting the petitioner to mark the document had imposed certain restrictions through whom the same can be marked, that necessarily implies prayer with respect to recalling PW.6 not having been granted.

In that view of the matter, CRP.No.5279 of 2012 stands dismissed there being no sufficient ground for recalling PW.6 for marking the said document.

CRP.No.5278 of 2012 is allowed as the order in I.A.No.160 of 2012 had become final as respondents chose not to challenge the same. As rightly contended by the learned counsel for the respondents, the document can be marked only through individuals connected with the document, more specifically stated in para 12 of the impugned order. However, it is clarified that the document dated 04.09.1971 shall be received by the Court below, and marking it as an exhibit shall be strictly in accordance with para 12 of the order of the Court below.

Miscellaneous petitions pending, if any, shall stand disposed of. No order as to costs.

CHALLA KODANDA RAM,J

Date:17.08.2017
usd

