

HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

CIVIL REVISION PETITION No.1385 OF 2017

ORDER:

Heard learned counsel for the petitioner.

This civil revision petition arises out of an order in I.A.No.914 of 2016 in O.S.No.341 of 2007, dated 15.11.2016 passed by the learned Junior Civil Judge, Kanigiri.

The said suit was filed by the first respondent herein seeking declaration and for permanent injunction in respect of items 1 and 2 of suit schedule property of an extent of Ac.3.46 cents situated in Survey Nos.190 and 195 of Kanigiri Village, Kanigiri Mandal, Prakasam District. After completion of the trial in the said suit, I.A.No.914 of 2016 was filed by the second defendant for framing fresh issue with regard to Will, dated 29.04.2000 set up by the plaintiff in support of his case. The reason shown in the application is as follows.

“The Court framed the issues and posted the matter for trial. I am contending that the WILL set up by the plaintiff dated 29.04.2000 is a forged document. There is no issue on the validity of the said Will. Evidences have been let in regarding the said Will. It is necessary that an issue has got to be framed with respect to the Will dated 29.04.2000. The issue is “whether the Will dated 29.04.2000 set up by the plaintiff is true, valid and binding”. So I pray that the above issue may be framed.”

A counter affidavit is filed by the plaintiff stating that the application is filed only to drag on the suit. The trial Court held that the said application is filed to drag on the matter, if the Court frames the new issue, again evidence should be lead by the petitioner/respondent, the suit is at the stage of arguments and dismissed the application by its order, dated 15.11.2016. The trial Court also observed that the issues were framed on 24.08.2011, and no reason was shown by the plaintiff as to why no application was filed by him for framing proper issue immediately after framing original issue. The

application filed at the fag end of the suit is clearly a misuse of judicial process. The dismissal of the application by the trial Court is proper.

The civil revision petition is accordingly dismissed. Consequently, miscellaneous petitions pending, if any, shall stand closed.

A.RAMALINGESWARA RAO, J

28.07.2017
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