

HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

Civil Revision Petition No.4509 of 2017

ORDER:

Aggrieved by an endorsement made by the trial Court, declining to send Ex.B.1-Will for examination by a Handwriting Expert, the plaintiff in a suit for partition has come up with the above revision.

2. Heard Mr. A.P. Venu Gopal, learned counsel for the petitioner.

3. The petitioner filed a suit in O.S.No.85 of 2010 for partition of his 1/5th share in the suit schedule properties. The claim of the plaintiff/petitioner was that his mother Smt. Veeramachineni Sarojini died intestate on 30-07-2009, leaving behind her surviving, the petitioner herein as well as defendants 1, 4 and 5. The 2nd and 3rd defendants are the wife and daughter of another deceased brother.

4. The respondents filed their written statement claiming that the mother had executed a Will on 24-06-2005. It was an unregistered Will. According to the respondents, the mother earlier executed a registered Will dated 11-06-1998 and that after revoking the said Will, a fresh unregistered Will was executed on 26-06-2005.

5. In the course of evidence, the petitioner/plaintiff filed an application first for referring the alleged Will Ex.B.1 for examination by a Handwriting Expert. The prayer was for sending the document along with the registered sale deed and the vakalat and plaint. The said petition was allowed by the trial Court by an order dated 07-06-2016.

6. The document was accordingly sent to the Handwriting Expert, but the Handwriting Expert returned the document with the following endorsement:

“Please send extensive admitted full signature of Veeramachaneni Sarojini for the purpose of comparison.”

7. The petitioner thereafter filed a memo praying for limiting the examination of the Handwriting Expert to the words “Sarojini alone”, but by an endorsement dated 09-08-2017, the request of the petitioner was turn down. Hence, the petitioner is before this Court.

8. Admittedly, this is the second instance of the petitioner seeking a reference to a Handwriting expert. I do not know why the petitioner did not ask the handwriting contained in the original registered Will dated 11.6.1998 also to be sent along with the present Will. In any case, a person, who sets up the Will, is obliged to prove the Will in accordance with Section 68 of the Evidence Act. By referring a Will to a handwriting expert and getting of the opinion that the signature found therein was that of the testatrix, the Will may not stand established in accordance with law. The suit is of the year 2010. Unfortunately, the plaintiff himself has become responsible for the delay at least partially. I find no justification to interfere with the order of the trial Court.

9. Hence, the Civil Revision Petition is dismissed. No costs. As a sequel thereto, miscellaneous petitions, if any, pending shall stand closed.

V. RAMASUBRAMANIAN, J

Date: 08-09-2017
Ksn