

HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN

Civil Revision Petition No.2802 of 2017

Order:

Aggrieved by an order of the trial Court refusing to issue a direction to the defendants to produce an original unregistered Will, allegedly in their possession, the plaintiff in the suit has come up with the above revision.

2. Heard Mr. P.N. Murthy, learned counsel for the petitioner.

3. The petitioner herein filed a suit in O.S.No.1281 of 2016 seeking a decree of cancellation of a registered sale deed bearing document No.1408/1998, dated 30-5-1998. When the suit reached the stage of trial, the petitioner/plaintiff filed an application in I.A.No.211 of 2016 seeking a direction to the defendants to produce the original unregistered Will. The said petition was taken out on the basis that the defendants claim to have purchased the property from the petitioner's vendor's brother, on the basis of an unregistered Will and that therefore if the unregistered Will is produced in Court, the truth will come out.

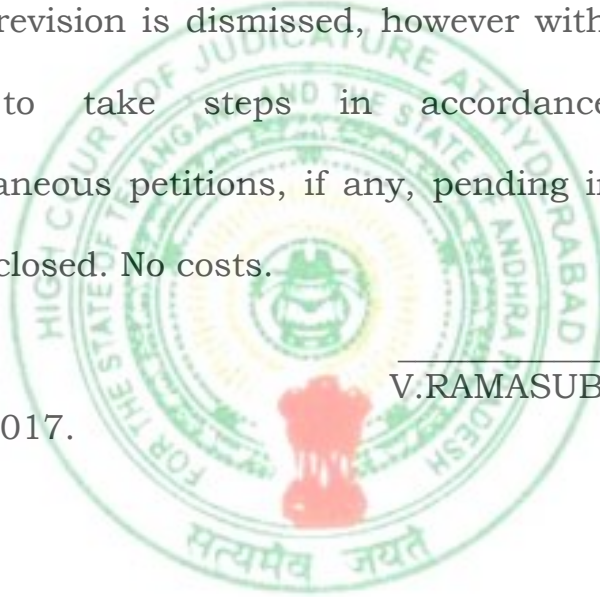
4. But unfortunately for the petitioner, there is a procedure prescribed in the Civil Procedure Code for summoning of documents in the possession of the opposite party. If the defendant in a suit relies upon a document, it is up to that defendant to prove the truth and validity of the said document. Alternatively if the plaintiff claims that there

is a document in the possession of the defendant, which if produced, would reveal the truth, the plaintiff is obliged to issue a notice to the defendant for the production of the document. If despite such a notice being served, the defendant fails to produce the document, the plaintiff can always seek the Court to draw an adverse inference.

5. Without following the above procedures prescribed under Order XII CPC, it is not possible for the petitioner to seek a direction to the respondents to produce the document. Hence, the revision is dismissed, however with liberty to the petitioner to take steps in accordance with law. The miscellaneous petitions, if any, pending in this revision shall stand closed. No costs.

V.RAMASUBRAMANIAN, J.

23rd June, 2017.
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