

HON'BLE DR. JUSTICE B. SIVA SANKARA RAO

CIVIL REVISION PETITION No.5911 OF 2016

ORDER:

Heard both sides and perused the grounds of Revision and the impugned order of the lower Court.

The application filed by the 2nd defendant in I.A. No.100 of 2016 in the pending suit in O.S. No.274 of 2012, under Order VIII Rule 1-A and Section 151 of C.P.C., to receive the documents by according leave *viz.*, among the 5 documents, document one mentioned dated 21.12.1995, two separate un-registered relinquishment agreements executed on stamp papers by respondents in favour of their father, and the other documents are pattadar passbook and revenue title deed in favour of 2nd defendant, registered sale deed No.893 dated 30.09.1984 in favour of son of 2nd defendant, registered sale deed No.274 dated 01.06.1989 in favour of father of 2nd defendant, and allotment letter issued by A.P. State Housing Corporation Limited, Kurnool.

The petition is opposed by counter of the plaintiff.

The averments in support of the petition are that the 2nd defendant is an illiterate woman and not conversant with the Court proceedings and recently *i.e.*, a week back she traced out the documents which are the two separate un-registered relinquishment deeds and the other documents and the said documents are crucial for the Court to come to a correct conclusion in the suit and non-filing is not deliberate thereby to receive.

In the counter the said petition is opposed in saying the 2nd defendant places his defence upon a documents, must enter the document in the list and produce in Court when written statement filed and if not in her possession, shall state as to in whose possession it is and for

non-compliance with the same, the documents cannot be received that too when the plaintiff denies the very execution of the document saying it is fabricated and the petition is to procrastinate.

The impugned order of the lower Court in dismissing the Petition *in toto* is that the delay is not properly explained, among the documents two are un-registered relinquishment deeds not even admissible in evidence, and it is the contest of the respondents that these are fabricated documents and cannot be received. In the written statement at Para 5, page 3, it is mentioned about the registered sale deeds and about the so called execution of the relinquishment agreement in favour of their father Kattubadi Madduleti @ Maddaiah on 21.12.1995 relinquishing the rights over the properties covered by Items 1 and 2 of the plaint schedule, after receiving an amount. It is not even mentioned that the said relinquishment deeds are in the custody of any other party. Once it is the case that is supposed to be filed with written statement, at least a zerox copy for not filing that too when it is the contest of the plaintiff that those are forged, there is no reason to receive those relinquishment documents but for the registered sale deeds, the pattadar passbook and revenue title deed, and Housing Board allotment letter; thereby, the Revision is allowed in part by setting-aside the dismissal order by confining the dismissal order only to the two relinquishment deeds by receiving other documents with a direction to the lower Court to receive other documents.

As a sequel, miscellaneous petitions, if any, pending in this Revision shall stand closed. No order as to costs.

Dr. B. SIVA SANKARA RAO, J

Date: 28.12.2017.
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54



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