

HONOURABLE SRI JUSTICE RAJA ELANGO

CIVIL REVISION PETITION No.1608 of 2017

ORDER:

This Civil Revision Petition is filed challenging the docket order, dated 16.12.2016, passed in I.A. SR No.3372 of 2016 in O.S. No.20 of 2016 on the file of Senior Civil Judge, Kothapeta, East Godavari District.

The case in brief is that the petitioners and one Devella Baby are the children of one Arumilli Sreerama Murthy and the 1st respondent. Said Sreerama Murthy developed the properties and purchased some properties in the name of his wife and children. During his lifetime, said Sreerama Murthy and the 1st respondent executed letter, dated 19.10.2002, to deliver some properties to the petitioners and accordingly, they delivered some properties to the petitioners and since then the petitioners are in possession and enjoyment of the said properties. Said Sreerama Murthy died on 16.07.2014. Before his death, said Arumilli Sreerama Murthy executed an unregistered Will dated 20.05.2014 in a sound state of mind, bequeathing the properties to the petitioners, reserving the life interest to the 1st respondent and vested remainder rights to the petitioners. While so, the petitioners came to know that the 1st respondent executed gift settlement deed, dated 21.01.2016, in favour of the 2nd respondent, who is the son of the daughter i.e. Devella Baby, of the 1st respondent. The 1st respondent has no right to do so and the 2nd respondent is not entitled to the properties under the alleged gift settlement deed. The original of the family arrangement letter, dated 19.10.2002 is with the 1st defendant, but, she did not produce the same before the trial Court. Therefore, the petitioners filed the impugned application before the trial Court to receive the Photostat copy of the said family arrangement letter as

secondary evidence. But, the trial Court rejected the same vide docket order, dated 16.12.2016. Hence, this revision petition.

Heard the learned counsel for the petitioners and perused the material available on record.

Learned counsel for the petitioners submitted that the Court below ought to have received the Photostat copy of letter, dated 19.10.2002, as secondary evidence since the petitioners have already filed memo requesting the 1st respondent to produce the original of the said letter, that the 1st defendant has not specifically denied the custody of the said letter in the written statement and that no prejudice would be caused to the defendants if the Photostat copy of the said letter is received and that the trial Court without assigning any reasons, refused to receive the said application and the document, which the petitioners intended to file before the trial Court.

Considering the circumstances of the case and the grievance of the petitioners, this Court is of the view that the CRP can be disposed of with the following direction:

“The Senior Civil Judge, Kothapeta, East Godavari District, is directed to receive the application, along with the Photostat copy of the document, filed by the petitioners and pass appropriate orders in accordance with law regarding the maintainability of the application.”

The Civil Revision Petition is, accordingly, disposed of. No order as to costs. Miscellaneous petitions, if any, shall also stand closed.

RAJA ELANGO, J

August 02, 2017
KTL

