

THE HON' BLE SRI JUSTICE C.PRAVEEN KUMAR

CIVIL REVISION PETITION No. 6268 of 2016

ORDER:

1) Assailing the docket order, dated 04.11.2016 passed in O.S.No.477 of 2009 on the file of the I Additional Junior Civil Judge, Chittoor, wherein the objection of the petitioners/defendants that Ex.A10 cannot be looked into, as it lacks registration, is rejected the present Civil Revision Petition came to be filed.

2) The facts in issue are as under:

Earlier, the petitioners herein filed C.R.P.No.611 of 2015, questioning the very marking of Ex.A10. By an order dated 21.08.2015, a learned Single Judge of this Court *set aside* the same and directed the Court below to decide the objections raised by the petitioners as to the admissibility of the said document on the ground that the said document is not registered and not sufficiently stamped, without postponing the same, to the time of the judgment. Thereafter, the Court below considered the objections and passed the impugned docket order. Challenging the same, the present Civil Revision Petition came to be filed.

3) Learned counsel for the petitioners mainly submits that the Court below committed a grave error in marking the said document without considering the admissibility of the same as it

was executed only on a stamp paper of Rs.50/-. He further submits that the said document creates a new right which was not the case of the respondents herein in Ex.A4 sale deed. Since the disputed document was not referred anywhere in the plaint or in the affidavit filed by the plaintiff, the same appears to be a fraudulent one.

4) On the other hand, learned counsel for the respondent/plaintiff would submit that once the document is marked, the admissibility or otherwise of the said document cannot be questioned at this stage, more so when it is only a kararunama referring to the confirmation of rights of cart track, which does not confer any right or title over the cart track or a cart track way.

5) In order to substantiate the plea that Ex.A10 requires registration, the learned counsel for the petitioners relied upon a judgment of this Court in *Ambari Mohini (died) and another v. Peddireddy Bhagyamma*¹. In the said case the Court dealt with a situation, where there was an agreement dated 29.04.1997 showing existence of path way between the house of the plaintiff and defendant. On account of disputes, an agreement was entered into wherein the plaintiff sold land to an extent of 2' x 34' site in the pathway for an amount of Rs.30,000/-, to the defendants. It is also agreed upon that both the parties have equal rights over the path way and shall not raise any dispute in

¹ (2014) 6 ALD 229

respect of the path way. It was further agreed that each party has right to sell away their respective houses along with half of the pathway to the third parties. Under those circumstances, the Court held that the said agreement which conveys right over the property requires registration.

6) In the instant case, as per Ex.A10, which is subject matter of dispute in the present revision, the vendor conferred right on a cart track which leads to the well from the land sold under separate sale deed (Ex.A4). Admittedly, Exs.A4 and A10 were executed on the same day. Ex.A10, was executed by one Raji Reddy in favour of the plaintiff. A reading of the said document indicates that due to advertence the usage of the said cart track was not referred to in Ex.A4 ie. Sale deed. In the plaint and affidavit, it is categorically mentioned that through a registered sale deed-Ex.A4 itself, the right to enjoy the cart track was given to the plaintiff by his vendor. It is also to be noted that the suit is for providing any easement rights and the document which is subject matter of dispute is only a kararunama reiterating/ clarifying the contents of earlier document Ex.A4-sale deed.

7) Having regard to the above and since the case is at the stage of arguments, the objection of the petitioners with regard to registration of Ex.A10 cannot be accepted. However, since the suit is of the year 2009, the trial Court is directed to dispose of

the suit as early as possible, preferably, within a period of two to three months from the date of receipt of a copy of the order.

8) Accordingly, the Civil Revision Petition is dismissed. There shall be no order as to costs. Miscellaneous petitions, pending, if any, shall stand closed.

JUSTICE C. PRAVEEN KUMAR

12.04.2017
gkv

