

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

C.R.P.No.5217 of 2017

ORDER:

This Revision Petition is filed challenging the Order dt.05-09-2017 in I.A.No.1064 of 2017 in O.S.No.47 of 2011 of the I Additional Sessions Judge, West Godavari, Eluru.

2. Petitioner herein is the defendant in the suit. The said suit was filed by the respondents for cancellation of the registered settlement deeds dt.21-02-2011 in respect of item Nos.1 and 2 of the plaint schedule property. It was contended in the plaint that both documents were obtained by the defendant from the plaintiffs in playing fraud and misrepresentation and the said documents are not at all valid and binding on the plaintiffs.

3. This allegation is denied in the Written Statement filed by the petitioner-defendant.

4. After the trial concluded and the matter was coming for arguments, the respondents filed I.A.No.1064 of 2017 raising the specific plea that the respondents/plaintiffs did not purchase the stamps required for the alleged documents and did not take the original documents from the Sub Registrar, Palakole; and that the petitioner purchased the stamps in the name of 1st respondent/1st plaintiff and took the original documents from the Sub Registrar, Palakollu. It is also stated that D.W.1 in his cross examination deposed that stamps were purchased by 1st plaintiff four days prior to

the date of settlement deeds, that subsequently he received the documents and handed over the same to him. It is contended that 1st respondent was also resident of Hyderabad as on the date of execution of the said documents only, that she came down to Palakole and that the petitioner is deposing to a false hood and it is just and necessary to (i) summon the District Registrar directing him to bring the register of stamp vendor, MLN Guptha of Palakollu, of the year 2011, (ii) to summon the Sub Registrar directing him to bring the register in the custody of Sub Registrar, Palakole which shows the person who took the original document Nos.978/2011 and 979 of 2011 of Sub Registrar, Palakole and (iii) to depose regarding the aspect as to who purchased the stamps from the stamp vendor and who took the original documents from the Sub Registrar office. The respondent therefore prayed for reopening of the matter and issuance of summons to the Sub Registrar, Palakole for this purpose.

5. This application was opposed by the petitioner stating that this application is filed only to drag on the proceedings and to fill up the lacuna in the respondents' case. It is alleged that 1st respondent did not go into the witness box to give evidence of the members of the proposed witness and the documents sought to be purchased by them are not relevant. It is contended that the documents in question themselves indicate that the stamp paper was purchased by 1st plaintiff and so there is no necessity to reopen the matter and to examine the District Registrar, Eluru and Sub Registrar, Palakole to give evidence.

6. By an order dt.05-09-2017, the Court below allowed the said application stating that since the suit is filed for cancellation of the deeds, the summons are issued to the above witnesses to produce the documents which would assist the Court.

7. Assailing the same, this Civil Revision Petition is filed.

8. Learned counsel for the petitioner sought to contend that the application filed by the respondents is only to drag on the suit and no purpose will be served by summoning the said witnesses and perusing the documents which they produced.

9. Having regard to the fact that the Court below had exercised its discretion in summoning certain witnesses for production of certain documents, which according to it may throw light on the truth or otherwise of the contentions of the respective parties, I am of the opinion that there is no error of jurisdiction in the order passed by the Court below.

10. Accordingly, the Civil Revision Petition is dismissed at the admission stage. No costs.

11. As a sequel, the miscellaneous petitions pending, if any, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 06-10-2017

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