

THE HON'BLE SRI JUSTICE M.S.K.JAISWAL

C.R.P.No.2971 of 2017

ORDER

This revision is filed challenging the docket order dated 20.09.2016 passed in O.S.No.5 of 2010 by the learned Senior Civil Judge, Sompeta, Srikakulam District, observing that the impounded mortgage deed can be received in evidence and directing P.W.1 to appear before the Court to give evidence.

2. Heard both sides and perused the material on record.

3. Petitioners herein are defendants 1 and 2 in O.S.No.5 of 2010 filed for recovery of money and permanent injunction. They state that as the 2nd petitioner had executed an unregistered mortgage deed in respect of the suit schedule property on a letter pad, it cannot be received as evidence for collateral purpose.

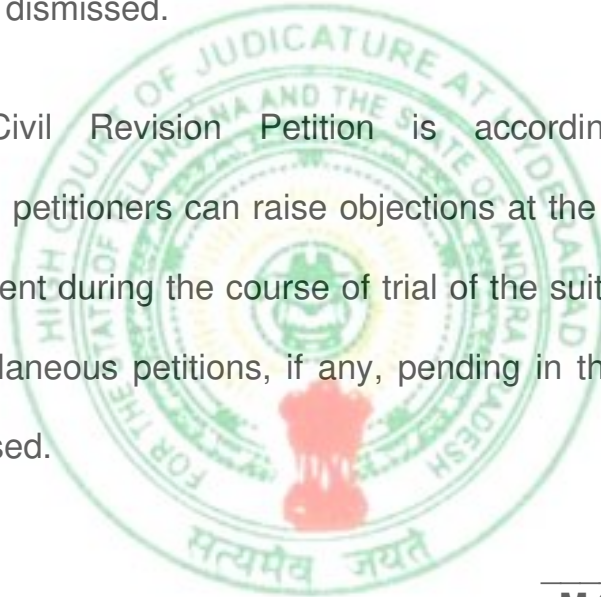
4. Learned counsel for petitioners/defendants contended that the alleged mortgage deed is not a genuine document as it was signed with green ink on a letter pad and therefore, it cannot be received as evidence.

5. Learned counsel for the first respondent/plaintiff submits that the suit is filed for recovery of money on the basis of mortgage deed that is produced for collateral purpose for recovery of money and it is impounded.

6. The material on record would show that the petitioners/defendants 1 and 2 borrowed a sum of Rs.2,50,000/-

from the 1st respondent/plaintiff and the 2nd petitioner, who was the Chairperson of Agricultural Market Committee at that time, had executed an unregistered mortgage deed of the suit schedule property on her letter pad on 10.01.2007 and delivered possession of said property along with the documents to the plaintiff. Since the unregistered mortgage deed could be admitted in evidence for collateral purpose, the genuineness and authenticity of the document can be determined at the time of its appreciation. In that view of the matter, there are no merits in the revision and the same is liable to be dismissed.

7. The Civil Revision Petition is accordingly dismissed. However, the petitioners can raise objections at the time of marking of the document during the course of trial of the suit. No order as to costs. Miscellaneous petitions, if any, pending in this revision shall stand dismissed.



M.S.K.JAISWAL,J

6th October, 2017

sj