

THE HON'BLE SRI JUSTICE SANJAY KUMAR

CIVIL REVISION PETITION NO.6039 OF 2016

O R D E R

This civil revision petition under Article 227 of the Constitution arises out of the order dated 01.10.2016 passed by the learned XIII Additional District and Sessions Judge, Ranga Reddy District at L.B.Nagar, in O.S.No.757 of 2009. The said suit was filed by the respondents herein for partition and separate possession of their half share in the suit schedule property. While so, during her examination in the trial, the 1st defendant in the suit tendered a document titled 'Illarika Patram' in evidence. The learned counsel for the respondents/plaintiffs objected thereto on the ground that the said document was compulsorily registrable under Section 17 of the Registration Act, 1908 (for brevity, 'the Act of 1908'). Accepting this plea, the trial Court held that the document could not be admitted in evidence or even be considered for collateral purposes *vide* its order dated 01.10.2016. Aggrieved thereby, the defendants in the suit filed this revision petition.

Heard Sri A.Ravinder Reddy, learned counsel for the petitioners/defendants, and Sri M.Kishan Singh, learned counsel on caveat for the respondents/plaintiffs.

Sri A.Ravinder Reddy, learned counsel, argued that even if the document in question was compulsorily registrable, it could still be marked in evidence for collateral purposes in terms of the Proviso to Section 49 of the Act of 1908. He would state that though the 'Illarika Patram' spoke of conveyance of movable and immovable properties which might make the document compulsorily registrable, it could still be looked into for the collateral purpose of establishing

the illatom arrangement. He would therefore contend that the finding of the trial Court to the contrary is against the settled legal position.

Per contra, Sri M.Kishan Singh, learned counsel, would assert that the document in question is a fabricated one and that it could not be marked in evidence, being unregistered.

Sri A.Ravinder Reddy, learned counsel, placed reliance on **ANNAMADEVULU CHANDRARAO V/s. M.VEERA RAGHAVULU**¹. Therein, this Court referred to the Larger Bench decision of this Court in **CHINNAPPAREDDIGARI PEDDA MURTHYLAREDDY V/s. CHINNAPPAREDDIGARI VENKATAREDDY**² which held to the effect that though an unregistered partition deed could not be looked into for the terms of the partition, it could be looked into for establishing severance in status, i.e., a collateral purpose. This Court then observed that in terms of the judgment of the Supreme Court in **K.B.SAHA AND SONS (P) LTD. V/s. DEVELOPMENT CONSULTANT LTD.**³, a collateral transaction is one which is independent of, or divisible from, the transaction of which the law requires registration. This Court further observed that for establishing an ancillary issue which is purely incidental to the direct and substantive issue, a document could be received in evidence, but when it is marked for any such collateral purpose, the Court must make an endorsement that it is received only as evidence for such collateral purpose under the Proviso to Section 49 of the Act of 1908.

Given the statutory provision and the aforestated settled legal position, the terse opinion expressed by the trial Court that merely because the document is compulsorily registrable, it could not be

¹ 2015 (4) ALT 463

² 1969 (1) ALT 375

³ 2008 (8) SCJ 717

considered even for collateral purpose runs contrary to the mandate of the Proviso to Section 49 of the Act of 1908 and the interpretation thereof by the Court. Subject to proof of the document, given the plaintiffs' allegation that it is fabricated, the same could be looked into only for collateral purposes as sought by the defendants.

The civil revision petition is accordingly allowed to that extent. The trial Court shall mark the document in evidence subject to it being proved, but only for the limited purpose of looking into it for collateral purposes. Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

17th FEBRUARY, 2017

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SANJAY KUMAR, J

