

THE HONOURABLE SRI JUSTICE A.V.SESHA SAI

CIVIL REVISION PETITION No.5615 OF 2017

ORDER:

Defendant in O.S.No.24 of 2009 on the file of the Court of the Senior Civil Judge, Adoni is the petitioner in the present revision filed under Article 227 of the Constitution of India.

2. Heard Sri K.Sitaram, learned counsel for the petitioner/defendant, and Sri Prabhala Rajasekhar, learned counsel for the respondent/plaintiff, apart from perusing the material available before this Court.

3. Respondent herein instituted the said suit for permanent injunction to restrain the defendant/petitioner herein from alienating the suit schedule property. Plaint schedule property is an extent of Ac.0.90 cents situated in Sy.Nos.97 and 100 pyki of Basarakodu Village, Adoni Mandal, Kurnool District. During the course of trial, the defendant sought to mark three documents viz., (1) partition list, dated 28.07.1993, (2) partition list, dated 28.03.1999, and (3) relinquishment deed, dated 24.06.1999. The learned Senior Civil Judge, Adoni, by way of the order under challenge, over ruled the objections raised by the plaintiff to the extent of marking the partition lists, dated 28.07.1993 and 28.03.1999, while holding that the relinquishment deed, dated 24.06.1999, cannot be admitted in evidence and the same requires registration under Section 17 of the Registration Act, 1908. The said order is under challenge in the present revision petition.

4. According to the learned counsel for the petitioner, the order passed by the learned Senior Civil Judge to the extent of refusing to permit the petitioner herein to mark the relinquishment deed, dated 24.06.1999, is erroneous. It is the further submission of the learned counsel for the petitioner that the recitals of the relinquishment deed would clearly show that the same was executed acknowledging the right of the defendant to the subject property but the same cannot be construed as a relinquishment deed having regard to the language of the recitals.

5. On the contrary, it is the submission of the learned counsel for the respondent that the recitals in the said document clearly disclose that the said document not only acknowledged the right, but also relinquished the right. It is further submitted by the learned counsel that in the plaint also, it is pleaded that the lands in Sy.Nos.97 and 100 admeasuring Ac.4.00 cs fell to the share of the father of the plaintiff and the father of the defendant jointly in the partition and both of them decided to keep the land jointly and the same are situated adjacent to the village. It is also pleaded in the plaint that the plaintiff, defendant and one Mr.B.Siva Mohan Reddy are in joint possession and enjoyment of the schedule mentioned property even today. The learned Judge, by way of the order under challenge, permitted the marking of the partition deeds, dated 28.07.1993 and 28.03.1999 for collateral purpose by over ruling the objections taken by the learned counsel for the plaintiff. To the extent of the third document i.e., relinquishment deed said to have been executed by the plaintiff, the learned Judge found that the same is a deed by virtue of which the relinquishment of right had taken place and eventually, came to a

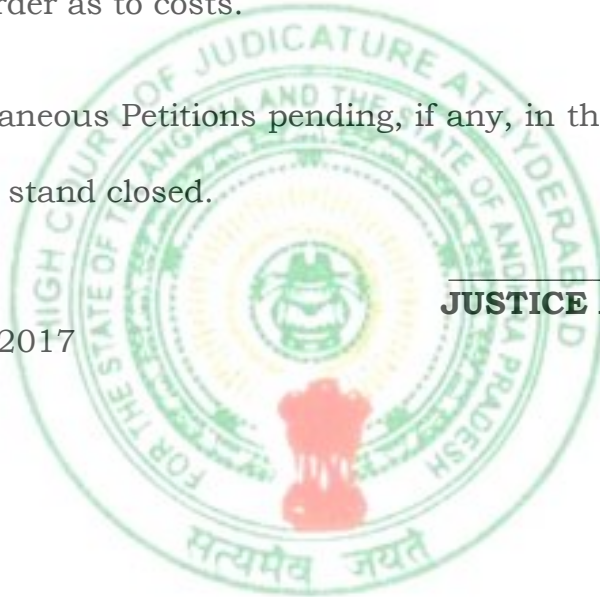
conclusion that the document requires registration under Section 17 of the Registration Act and it cannot be admitted in evidence. A perusal of the subject document, dated 24.06.1999, clearly shows that the plaintiff not only relinquished his right, but acknowledged the right of the defendant. Therefore, the learned Judge is perfectly justified in rejecting the request of the petitioner herein for marking the said document. Hence, this Court does not find any valid reason to meddle with the order impugned.

6. Accordingly, the Civil Revision Petition is dismissed. There shall be no order as to costs.

7. Miscellaneous Petitions pending, if any, in this Civil Revision Petition shall stand closed.

Date : 06.12.2017
AMD

JUSTICE A.V.SESHA SAI



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