

HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

C.R.P.No.5848 of 2017

Date : 03-11-2017

Between:

Yelugubanti Jagga Rao (died)
per L.Rs. Prabhudas and others

.. Petitioners

And

Yelugubanti Adibabu and others

.. Respondents

Counsel for petitioners : Sri Mangena Sree Rama Rao

Counsel for respondents : --



The Court made the following:

ORDER:

This Civil Revision Petition is filed against order dated 9-10-2017 in I.A.No.957 of 2017 in O.S.No.286 of 2013 on the file of the learned X Additional District & Sessions Judge, Visakhapatnam at Anakapalli.

One Yelugubanti Jagga Rao filed the aforementioned suit for declaration of his title to the suit schedule property and for the consequential relief of recovery of possession. After the filing of the suit, he died. On 1-4-2015, defendant No.1 has filed written statement, inter alia, to the effect that the original plaintiff executed sale deed dated 2-3-1961 in their favour. The parties went to trial after completion of the pleadings. After the plaintiffs' side evidence was closed, they have filed the aforementioned I.A. under Section 45 of the Indian Evidence Act 1872 to send the registered sale deed dated 2-3-1961 to a handwriting expert for comparison of the signatures and thumb impressions of the deceased original plaintiff therein with those in Ex.B-1-registered Will deed purported to have been executed by the original plaintiff. This application was dismissed by the lower Court.

Though the respondents/defendants have filed written statement as far back as 1-4-2015 setting up the plea of execution of registered sale deed in their favour by the original plaintiff on

2-3-1961, the petitioners/plaintiffs have not filed any application for sending the said document to an expert before the commencement of trial. Moreover, when the defendants have set up the plea of execution of Ex.B-1-registered Will deed, which is denied by the petitioners/plaintiffs, the burden lies on the respondents/defendants to prove the genuineness of the said document. Therefore, it is not necessary for the petitioners/plaintiffs to seek the opinion of the expert on the genuineness of the registered sale deed.

For the aforementioned reasons, the Civil Revision Petition is dismissed.

As a sequel to the dismissal of the Civil Revision Petition, CRPMP No.7551 of 2017 filed for interim relief is disposed of as infructuous.

Justice C.V. Nagarjuna Reddy

Date : 03-11-2017

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