

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

CIVIL REVISION PETITION No. 6215 OF 2017

DATED 17TH NOVEMBER, 2017

Between:

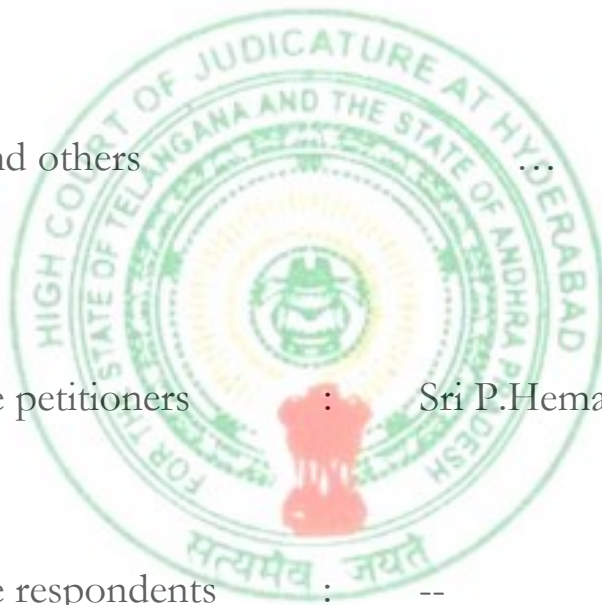
Dondu Satyavathi and others ... Petitioners

AND

Vijaya Mittal and others ... Respondents

Counsel for the petitioners : Sri P.Hemachandra

Counsel for the respondents : --



THE COURT MADE THE FOLLOWING

ORDER:

This civil revision petition arises out of order dated 04-10-2017 in I.A.No. 649 of 2017 in O.S.No. 180 of 2009 on the file of the Court of VI Additional District Judge, Visakhapatnam (for short, 'the Court below'), whereby he has dismissed the abovementioned I.A. of the petitioners-defendant Nos. 3 to 6 filed for recalling D.Ws.2 and 3 for further examination.

2. I have heard learned counsel, representing Sri P.Hemachandra, learned counsel for the petitioners, and perused the record.

3. Respondent Nos. 1 to 4 filed the aforementioned suit *inter alia* for passing a preliminary decree for recovery of money covered by mortgage deeds. The petitioners and respondent Nos. 5 and 6 filed I.A.No. 649 of 2017 under Order XVIII Rule 17 of the Code of Civil Procedure for recalling D.Ws.2 and 3 for the purpose of further examination to verify whether the handwriting and the signature on the original of Ex.A13 are of late A.Suryanarayana Chainulu or not. This application was dismissed mainly on the ground that the scope of the suit is confined to the genuineness or otherwise of the deeds of guarantee executed by defendant No. 2, that the original Will was not brought on record and that the evidence of D.Ws. 2 and 3 on the

copy of the Will allegedly executed by the father of defendant No. 1 and a copy of which was marked as Ex.A13 does not change the outcome of the suit.

4. At the hearing, learned counsel for the petitioners has not disputed that the outcome of the suit does not depend upon the genuineness or otherwise of Ex.A13 Will. D.Ws. 2 and 3 are stated to be document writers and they were examined by the defendants in order to prove that Ex.A13 Will is not genuine. As rightly observed by the Court below, the result of the suit does not depend upon the genuineness or otherwise of the Will. The submission of learned counsel for the petitioners is that by seeking to prove that Ex.A13 is not genuine, the defendants want to establish that the whole case of the plaintiffs is false. In my opinion, even if Ex.A13 is held not genuine, there can be no presumption that the other suit documents are also not genuine. Considering the fact that the suit is of the year 2009 and the evidence has already been closed, I do not find any strong reason to recall D.Ws. 2 and 3 for further examination.

5. For the aforementioned reasons, the civil revision petition is dismissed.

6. As a sequel to dismissal of the civil revision petition, C.R.P.M.P.No. 8026 of 2017 shall stand dismissed as infructuous.

C.V.NAGARJUNA REDDY, J.

Date: 17-11-2017.

JSK

