

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

CIVIL REVISION PETITION No.5534 OF 2017

ORDER:

The second defendant in O.S.No.55 of 2015 is the petitioner herein. The respondents herein filed the said suit for partition and separate possession of their 2/3rd share in the suit schedule property. The evidence of the plaintiffs was completed and at the stage of defendants' evidence, the petitioner filed I.A.No.85 of 2017 to receive unregistered sale deed dated 20.06.2007 executed by the first defendant in favour of the second defendant. A counter affidavit was filed to the said application and the trial Court dismissed the application by order dated 19.09.2017 and challenging the same, the present civil revision petition is filed.

In support of the application, the petitioner herein stated that she purchased the land of an extent of Acs.0.9½ cents in Survey No.91 and Acs.0.35 cents in Survey No.92 from the first defendant and the plaintiffs filed the suit in collusion with the first defendant against the petitioner herein, who is the second defendant, to defeat her valuable right. The first defendant is none other than the son of the first plaintiff and brother of the second plaintiff. The petitioner states that she is a *bona fide* purchaser from the first defendant and the sale deed is required to be marked. She stated that the said document was not filed earlier as she wanted to file the suit for specific performance.

The respondents filed a counter affidavit denying the said allegations and specifically stating that the document is not admissible in evidence as it is an unregistered one and time barred.

The trial Court dismissed the application stating that the evidence of the plaintiffs was closed on 12.07.2017 and the petition was filed on 31.08.2017. The trial Court observed that even though the petitioner stated that the document was kept with her to file a suit for specific performance,

there is no whisper with regard to the filing of the suit for specific performance. In the Written Statement also, the document was not referred.

Admittedly, the document sought to be marked is an unregistered document and there is no reference to the said document in the Written Statement. In a suit for partition, an unregistered document cannot be taken in evidence, except for collateral purpose. The petitioner also did not explain the reason for not producing the document initially at the time of filing the Written Statement. In view of the same, I am of the opinion that the order passed by the trial Court does not warrant any interference by this Court.

The civil revision petition is accordingly dismissed. Consequently, miscellaneous petitions pending, if any, shall stand closed.

17.11.2017
pln



A.RAMALINGESWARA RAO, J