

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

CIVIL REVISION PETITION No.5883 of 2017

ORDER:

Plaintiff in O.S.No.10 of 2010 on the file of the learned Senior Civil Judge, Adoni, Kurnool District, is the petitioner in this revision filed under Article 227 of the Constitution of India.

Heard learned counsel for the petitioner and perused the material available before this Court.

This revision challenges the order, dated 13.09.2017, passed by the said Court in I.A.No.370 of 2017. The petitioner herein instituted the above suit for declaration that the alienations made by late Sri T.Anjaneyulu in favour of the defendant Nos.3 to 7, 10 to 12 and 14 to 16 and subsequent alienations made by the defendant Nos.7 and 12 in favour of the defendant Nos.8, 9 and 13 are not valid and binding on the plaintiff and for confirmation of plaintiff's possession over the plaint schedule plots. In the said suit, the petitioner herein filed the present I.A.No.370 of 2017 under the provisions of Order VI Rule 17 CPC for amendment of the plaint by insertion of the following paragraph as 7(a).

“7(a) The agreement dated 18.04.1991 and the power of attorney dated 18.04.1991 alleged to have been executed by the plaintiff in favour of B.T.Anjaneyulu are not at all admissible in evidence as they are insufficiently stamped. As the alleged power of attorney is an invalid document and not admissible in evidence, any alienation made by B.T.Anjaneyulu in respect of plaint schedule

mentioned plots are illegal and invalid. The plots fully described in the schedule to the plaint are non-layout plots. So, the alienations of non-layout plots are illegal and void. So, the plaintiff is attacking the power of attorney and alienation of plots by B.T.Ananeyulu as stated above also”.

The said application was contested by the second respondent by filing counter. The learned Senior Civil Judge, by way of the order under challenge, dismissed the said application. Hence, the present revision.

According to the learned counsel for the petitioner, the order passed by the Court below is erroneous, contrary to law and opposed to the very spirit and object of the provisions Order VI Rule 17 CPC. It is his further submission that the proposed amendment will not change the nature of the suit. In fact, by way of the proposed amendment, the petitioner herein sought to introduce a pleading, touching the admissibility of the power of attorney, dated 18.04.1981, standing in the name of Sri B.T.Ananeyulu. In fact, in the impugned order, the learned Senior Civil Judge categorically observed that the said pleading raised in the objection as to the admissibility of the document is a legal objection and can be raised at the time of marking the document and the proposed amendment need not be required.

In view of the above said finding recorded by the Court below, this Court is not inclined to meddle with the order passed by the Court below and, as observed by the Court below, it is always open for

the petitioner herein to raise the objection, as to the admissibility of the said document, at relevant point of time.

With the above observation, the Civil Revision Petition is dismissed.

As a sequel, the miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

10th November, 2017
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A.V.SESHA SAI, J

