

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CIVIL REVISION PETITION No.251 of 2018

ORDER:

This Civil Revision Petition is filed under Article 227 of the Constitution of India assailing the order dated 05.01.2018 passed in I.A.No.298 of 2017 in O.S.No.32 of 2007 on the file of the Junior Civil Judge, Chintalapudi.

2. Heard the learned counsel for both parties.

3. A perusal of the record reveals that the petitioner filed O.S.No.32 of 2007 on the file of the Junior Civil Judge, Chintalapudi, against the respondents for declaration and consequential perpetual injunction in respect of the suit schedule property. During pendency of the suit, respondent Nos.1 to 4 have filed I.A.No.298 of 2017, under Section 45 of the Indian Evidence Act, to send Ex.A.1-Will dated 15.03.2006 along with Exs.B.7 to B.9 alleged letters for comparison. After affording a reasonable opportunity to both parties, the trial Court allowed the said petition. Hence, the revision.

4. At the time of arguments, learned counsel for both parties, in one voice, submitted that respondent Nos.1 to 4 have not filed the admitted signatures of the testator of the Will dated 15.03.2006. Learned counsel for both parties, in all fairness, submitted that the trial Court has not given a specific finding on relevant aspects; therefore, it is a fit case to remand the matter to the trial Court.

5. In view of the submission made by the learned counsel for both parties, this Court is not inclined to go into the merits of the main case.

6. Having regard to the facts and circumstances of the case, the Civil Revision Petition is allowed setting aside the order dated 05.01.2018 passed in I.A.No.298 of 2017 in O.S.No.32 of 2007 on the file of the Junior Civil Judge, Chintalapudi, and remanding the matter to the trial Court. The learned Junior Civil Judge, Chintalapudi, is hereby directed to dispose of I.A.No.298 of 2017 on merits in accordance with the provisions of the Indian Evidence Act. There shall be no order as to costs.

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



T.SUNIL CHOWDARY, J

Date: 16.07.2018
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