

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

C.R.P.No.2189 of 2017

ORDER:

This revision petition is filed under Article 227 of the Constitution of India assailing the orders dated 07.09.2016 passed in I.A.No.346 of 2015 in O.S.No.74 of 2008 on the file of Senior Civil Judge Court, at Jagtial, Karimnagar District.

2. Heard the learned counsel appearing for both the parties and perused the material available on record.

3. A perusal of the record reveals that the petitioner filed I.A.No.346 of 2015 under Section 65 of the Indian Evidence Act to mark the zerox copy of partition list dated 20.06.1981 as secondary evidence. The respondents filed counter *inter alia* contending that without producing the original document, secondary evidence is not permissible under law. Basing on the material available on record, the trial Court dismissed the petition. Hence, the revision.

4. The point that arises for consideration is:

“Whether there is any illegality, irregularity or impropriety in the impugned order?”

5. A perusal of the record reveals that respondents 1 to 4 have filed O.S.No.74 of 2008 against the petitioner and others, on the file of Senior Civil Judge Court, at Jagtial, for partition of the suit schedule property. During pendency of the suit, the petitioner, who is D2, filed a petition under Section 65 of the

Indian Evidence Act to mark the zerox copy of the partition list dated 20.06.1981. Establishment of existence of the original document is *sine quo non* to permit the parties to the proceedings to produce the secondary evidence in respect of the said document. A perusal of the record reveals that the petitioner filed I.A.No.433 of 2014 seeking to permit him to mark the zerox copy of the partition list as secondary evidence. The trial Court dismissed I.A.No.433 of 2014.

6. It is an admitted fact that the petitioner did not file revision challenging the orders passed in I.A.No.433 of 2014. The orders passed in I.A.No.433 of 2014 became final and binding on the petitioner. For the self-same relief, the petitioner filed the present petition. The trial Court while placing reliance on the judgments reported in **K.V.K.Amarnath Vs. P.N.Eswaraiah¹, R.Buchi Reddy Vs. R.Pratap Reddy² and Bachu Laxmpathi Vs. Bachu Kistaiah³** arrived at a conclusion that the petitioner failed to prove the existence of the partition list dated 20.06.1981 and consequently dismissed the petition.

7. The petitioner miserably failed to establish the existence of partition list dated 20.06.1981. In the absence of existence of the partition list dated 20.06.1981, the question of permitting the petitioner to adduce secondary evidence does not arise. The trial Court assigned reasons much less cogent and convincing reasons while dismissing the petition. Viewed from any angle,

¹ 2010(3) ALD 419

² 2010(5) ALD 278

³ 2015(4) ALD 586

the order passed by the trial Court is sustainable either on facts or in law. There is no illegality, irregularity or impropriety in the orders of the trial Court warranting interference of this Court, while exercising the jurisdiction under Article 227 of the Constitution of India. Hence, the petition is liable to be dismissed.

8. In the result, the Civil Revision Petition is dismissed. There is no order as to costs. As a sequel, miscellaneous petitions pending, if any, shall stand closed.

Dt:04.12.2018
Rns

T.SUNIL CHOWDARY, J

