

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

CIVIL REVISION PETITION Nos.889, 906 and 908 of 2018

COMMON ORDER:

These three Civil Revision Petitions are being disposed of by this common order as the petitioner is common in all petitions.

2. The suit in O.S.No.146 of 2009 on the file of III Additional District Judge, Nellore, was filed by the plaintiffs, who are respondents 1 to 5 herein, for partition and separate possession of their share in the suit schedule property. After completion of plaintiffs' side evidence when the case is coming up for further evidence on defendants' side, the petitioner herein, who is 4th defendant in the suit, filed three applications in I.A.Nos.16, 17 and 18 of 2018 seeking to issue a direction to the District Registrar to call for production of original Registered Will, dated 16.06.2003 and to give evidence; to send Ex.B.1 document to handwriting expert, Hyderabad, for comparison of signatures of petitioner's father with that of official signatures in the list of documents mentioned in the petition and to condone the delay in filing the documents. When all three applications were dismissed by separate orders, the present Civil Revision Petitions are filed.

3. In the affidavit filed in support of the petition in I.A.No.17 of 2018, it is stated that the petitioner wanted to file the above applications as plaintiffs' took a stand that the Will relied on by him is a forged one and he wanted to prove said Will by sending the same to handwriting expert.

4. A counter-affidavit was filed in I.A.No.18 of 2018 stating that the signatures in the document are not the admitted signatures and

those signatures cannot be compared with the disputed signatures. The Will is of the year 2003 and the petitioner also admitted that the signature of his father vary from page to page. It is stated that the trial Court itself can compare the signature without sending the same to handwriting expert. The application is belated one and it is filed only to drag on the matter.

5. On such averments, the trial Court dismissed the applications merely I.A.No.17 of 2018 observing that the petitioner never made any attempt to get the disputed document to be sent to handwriting expert till completion of his evidence. He got an opportunity to seek for such a relief before the commencement of his evidence and the trial Court also observed that there is no dispute by any of the parties with regard to signature of father of the petitioner. Though this Court is not satisfied with the reasoning given by the trial Court, while dismissing the applications since the burden is on the petitioner to prove that the said Will was executed in accordance with the provisions of the Evidence Act and the Succession Act, the petitioner has got an opportunity to prove the document in accordance with law. In the absence of any dispute with regard to signature of father of petitioner, the document need not be sent for handwriting expert, but, it has to be proved in accordance with law. The trial Court also came to the conclusion that the documents filed for proving the signature of the father of the petitioner are not admitted signatures and accordingly, dismissed the application.

6. Since the entire dispute relates to Will, which is relied upon by the petitioner, it is for the petitioner to adduce evidence in support of the said Will. Thus, the present Civil Revision Petitions are misconceived.

7. Accordingly, these three Civil Revision Petitions are dismissed. However, it is open to the petitioner to adduce necessary evidence in support of the said Will.

Miscellaneous petitions, if any, pending in these three petitions shall stand closed. There shall be no order as to costs.

A.RAMALINGESWARA RAO, J

FEBRUARY 23, 2018

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Date: 23.02.2018

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