

THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

C.R.P.No.1395 of 2018

ORDER:

Aggrieved by the dismissal of an application filed by the 1st defendant to receive two documents and to mark them as exhibits, the 1st defendant has come up with the above revision.

2. Heard Mr. N. Anula, learned counsel for the petitioner and Mr. Sudarshan, learned counsel appearing for respondents 1 and 2 and Mr. E. Madan Mohan Rao, learned counsel appearing for respondent No.3.

3. The suit was one for permanent injunction. The 1st defendant claimed title to the property by virtue of a purchase from a person, who got the property allotted allegedly under a partition list, dated 23.02.1997. On the ground that the original partition list was written by the owner himself and a Xerox copy alone was parted with, the vendor of the 1st defendant, the petitioner herein filed an application for receiving the Xerox copy as secondary evidence. Holding that the same is inadmissible in evidence under Section 35 of the Indian Evidence Act, 1872, the trial Court dismissed the application. Hence the 1st defendant is before me.

4. The contention of the learned counsel for the petitioner is that the trial Court could have impounded the document, if it required stamp duty and registration. But the problem for the petitioner is that the document was not only insufficiently stamped but also a Xerox copy. Therefore the appropriate course open to the petitioner, even if he can pray for impounding of the document, should be to summon his vendor for the production of the original partition list.

5. Therefore, the civil revision petition is dismissed. It is left open to the petitioner to take steps to summon his vendor for the production of

the original partition list and thereafter to make a prayer for whatever relief he is entitled in law to make. There shall be no order as to costs.

6. As a sequel, pending miscellaneous petitions, if any shall stand closed.

V. RAMASUBRAMANIAN, J.

17th August, 2018
Js.



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