

THE HON'BLE SRI JUSTICE S.V.BHATT

C.R.P. No.1563 of 2018

ORDER:

The plaintiff filed I.A.No.6 of 2018 under Section 151 of Code of Civil Procedure. The plaintiff prays for invoking the inherent jurisdiction of the trial Court and the prayer reads as follows:

“For the reasons and grounds of objections raised by the plaintiff-Tulasamma, it is prayed by her (plaintiff) that the Hon’ble Court may be pleased “not to allow or permit the witnesses of the 2nd defendant (Madhuramma) to depose touching the contents or acting upon the document dated 10.05.1992 in question for want of Registration.”

The affidavit filed in support of the application refers to legal defects in the document, under the Stamps Act and also Registration Act.

The 2nd defendant filed counter affidavit which resembles written arguments as to why the said document ought to be allowed or allowed to be marked through witness of 2nd defendant.

Mr.Suresh, basing on record makes forceful submissions against the order under revision. With the assistance of Mr.Suresh, this Court has examined the entire record. To the pointed query of the Court, whether the

document dated 10.05.1992 is marked through one of the witnesses or is document get to be marked or an objection taken or the objection is overruled, learned counsel fairly states, none of these things had happened. However, the instant application has been filed only to preempt a witness of 2nd defendant from deposing anything on document dated 10.05.1992. This Court finds it difficult to appreciate the prayer which, for all purposes, amounts to giving the content by revision petitioner/plaintiff to the witness sought to be examined on behalf of the 2nd defendant. The plaintiff does not have such discretion or latitude in adversarial litigation.

Be that as it may, the objections raised are premature, however are considered in great length unnecessarily by the trial Judge. Now, the complaint of Mr.Suresh is that the trial court is marking the documents which are not stamped or insufficiently stamped as well as the documents which do not satisfy the requirement of Section 17 of the Registration Act.

Even if, Mr.Suresh is otherwise, correct, this Court in exercise of its jurisdiction under Article 227 of Constitution of India can correct the illegality pointed out in a revision by reference to general instances and the order under revision tested on its own merits. The prayer itself is premature and the entire exercise undertaken by the trial Court is equally

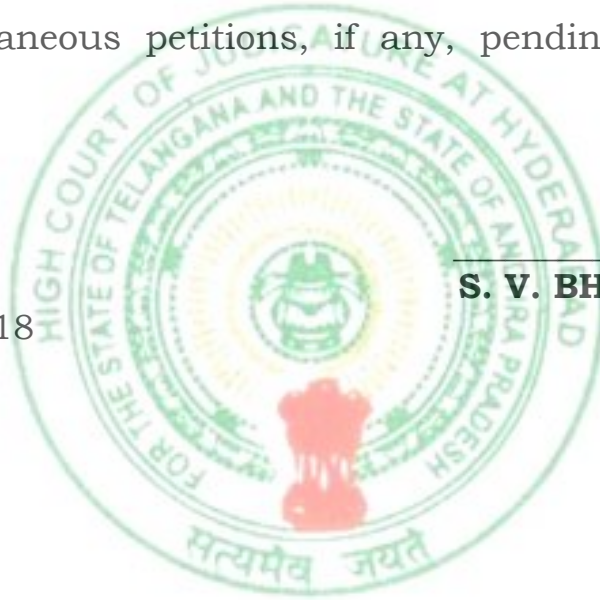
unwarranted. The findings recorded at this stage ought not prejudicially affect the rights of the petitioner herein.

While dismissing the revision, liberty is given to petitioner herein to file a memo of the objection the plaintiff has on document dated 10.05.1992 and at the time of marking, those objections are considered and order pronounced.

Civil Revision Petition is dismissed with above observations. No order as to costs.

Miscellaneous petitions, if any, pending, shall stand closed.

Dt: 08.03.2018
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S. V. BHATT, J

