

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CIVIL REVISION PETITION No.5329 OF 2016

ORDER:

Heard Sri T.V.S. Prabhakar Rao, learned counsel for the petitioner, and Sri T.S. Anand, learned counsel for the respondents, and perused the order under revision including the material on record.

2. The present Civil Revision Petition, under Article 227 of the Constitution of India, is preferred by defendant No.3 questioning the docket order dated 29.09.2016 in I.A. No.1042 of 2016 in O.S. No.705 of 2010, refusing the request to summon T.A. Register, passed by the learned IV Additional Junior Civil Judge, Rajahmundry, East Godavari District.

3. The defendants, at the stage, when they were supposed to lead their side evidence, filed the above application under Order - XVI Rule - 6 read with Section 151 of the Code of Civil Procedure, 1908, to summon the original T.A. Register for the year 30.08.1994 lying in the office of Sub Registrar, Rajahmundry, to enable them to obtain expert's opinion regarding signatures on Ex.A-9 by comparing with the signatures available in T.A. Register.

4. The learned trial court while dismissing the application observed thus:

“Admittedly, the registered Will dt.30-8-1984 alleged to have been executed by the father of the petitioner in favour of her mother, which contains the signature of her father, has not been produced before the court. Therefore, without producing the registered Will, the summoning of T.A register relating to the transaction is of no use. Further, the T.A register cannot be treated as an admitted document for comparing the signatures. Moreover, when the matter is coming up for further evidence on behalf of the defendants, the petitioner has come forward with this petition. Hence, I consider that no useful purpose would be served in summoning the T.A Register. Accordingly, the petition is liable to be dismissed.”

5. The learned counsel for the petitioners would submit that since the very allegation is that signatures of the father of the petitioners occurring on un-registered sale deed, which is a forged document as his father signatures were forged, if compared with the signatures in T.A. Register, it would reveal whether the signatures on Ex.A-9, which is an un-registered document, are genuine or not. He would submit that it is absolutely necessary to summon the original T.A. Register for the said purpose.

6. The learned counsel for the respondent resisted the request contending that the very original Will is not filed as the petitioners intend to get the T.A. Register, in which, the registered Will is recorded, maintained by the Registration Department, and according to him, Rule 129 of Civil Rules of Practice requires that unless

certified copies are obtained, the said T.A. Register cannot be summoned. To substantiate his plea, he placed reliance in **D. Ram Mohan Rao v. M/s. Sridevi Hotels Pvt. Ltd.**¹, wherein, a learned single Judge of this Court held that before summoning such original documents, Court must record reasons that those documents are necessary and party summoning them must establish that he applied for certified copies, but they were not being granted. The learned counsel for the respondent relied on yet another decision in **P. Sambasiva Rao v. Registrar (Admn.), High Court of A.P.**²

7. There are two aspects, which negative the stand of the revision petitioner. First, the registered Will is not placed before the Court which contains original signatures of the father of the petitioners and instead, they intend to summon the T.A. Register, in which, their father said to have signed, for the purpose of comparing his signatures occurring on the unregistered sale deeds under Ex.A-9 with the signatures available in T.A. Register of 1984. Second, non-observance of requirements of Rule 129 of Civil Rules of Practice, would disable the petitioners to seek such a relief. Thus, the trial Court did not go wrong and there is no merit warranting interference with the order under revision.

¹ 2005(6) ALT 712

² 2001 (4) ALT 272 (D.B.)

8. Therefore, the Civil Revision Petition is dismissed at the admission stage itself. There shall be no order as to costs.

As a sequel thereto, Miscellaneous Petitions, if any, pending in the present revision petition stand dismissed.

A. SHANKAR NARAYANA, J

April 17, 2018.

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