

HON'BLE SRI JUSTICE SURESH KUMAR KAIT

CIVIL REVISION PETITION No.2321 of 2018

ORDER : (Oral)

Vide the present petition, the petitioner/defendant has challenged the order dated 20th March 2018, passed in I.A.No.84 of 2018 in O.S.No.72 of 2013, whereby, the petition filed by the petitioner/defendant to summon the Sub-Registrar to produce the re-event registers in relation to registered Will dated 16.06.1988, has been dismissed.

2. The respondent-plaintiffs have filed the main suit for declaration and mandatory injunction. Previously, the petitioner herein filed Memo to produce the original title deeds of the lands of plaintiffs. But, the 2nd plaintiff stated that the original Will dated 16.06.1988 was in possession of his sister. Neither the 2nd plaintiff nor his sister preferred to file the said original Will. He tried several times to get certified copy of said Will from the concerned Registrar's office, but he could not get the same, as he was not the legal heir of deceased Lankapoth Appireddy i.e. executant of the said Will. In the aforesaid Will, there is mentioning of pathway in the lands of 1st and 2nd plaintiffs. The said Will is necessary to prove his case.

3. It is admitted by the learned counsel for petitioner that the plaintiffs have not filed the original Will dated 16.06.1988 and

said Will has not been marked by the trial Court. If that is the position, the trial Court will not rely upon the said Will. But, the case before the trial Court is, whether the pathway is meant for the said purpose or not. Therefore, the registered Will is in no way concerned with the alleged suit passage.

4. As stated before the trial Court by the petitioner herein that there is a pathway as per registered Will dated 16.06.1988 and to prove his case, the said registered Will is required. Whereas, the case of the respondent-plaintiffs is that the schedule covered under said Will is in no way concerned with the alleged suit passage.

5. The learned trial Court has observed that there are no specific averments in the petition as to the relevance of said Will to the suit passage, except the averment stating that in the said Will, it was specifically mentioned that there is pathway in the lands of 1st and 2nd plaintiffs. Accordingly, the trial Court has observed that there is no consistency in the petitioner's pleadings as to how the pathway, if in existence in the lands of 1st and 2nd plaintiffs as per said Will, as alleged, is relevant to the present case.

6. The petitioner before this Court is also not clear as to what is the relevance of the Will dated 16.06.1988 for the relief sought by the plaintiffs in O.S.No.72 of 2013.

7. In view of above, I find no merit in the present revision petition and the same is accordingly dismissed. No order as to costs.

Pending miscellaneous applications, if any, shall stand closed.

17th April 2018

ajr

SURESH KUMAR KAIT, J

