

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

CIVIL REVISION PETITION No.3002 OF 2018

ORDER :

This Civil Revision Petition is filed against docket order dated 20.03.2018 in I.A.No.212 of 2018 in O.S.No.99 of 2009, wherein and whereby the application filed by the petitioner/1st defendant under Order 16 Rule 6 read with Section 151 CPC for summoning the Sub-Registrar, Penugonda to produce the records available relating to the Will dated 06.01.1993 and codicil dated 19.03.1993 executed by Bondada Ramalingaiah is dismissed.

Heard learned counsel for the petitioner, who submits that for proving the Will, the registration extracts are very much necessary, but the Court below without considering the said aspect, dismissed the application.

On the other hand, J.Srinivasa Rao, learned counsel for the 1st respondent submits that when the petitioner is relying on the subject Will, he has to prove the same in terms of Section 68 of Indian Evidence Act and that the Court below has rightly dismissed the application.

In this case, the trial Court held that if original Will is with the respondent/plaintiff, petitioner has to issue notice to respondent/plaintiff for production of the same, but such steps are not taken and that the petitioner has to prove the same in terms of Section 68 of Indian Evidence Act. The trial Court also

relied on the judgment reported in **Penmetsa Padma v. Indukuri Seethamma and others**¹.

Admittedly, petitioner/1st defendant has not taken any steps for production of the Will by the respondent/plaintiff by issuing any notice. The suit is of the year 2009 and the plaintiff's side evidence so also the 1st defendant's evidence is closed. It is not known as to why steps are not been taken by the petitioner/1st defendant for production of subject Will and Codicil. Learned counsel for the petitioner/1st defendant now states that notice was issued to the respondent/plaintiff for production of the Will.

In view of above facts and circumstances, I do not see any error or illegality in the order passed by the Court below warranting interference under Article 227 of the Constitution.

Accordingly, this Civil Revision Petition is dismissed. However, it is needless to say that the Court below will pass necessary orders in pursuance to notice issued by petitioner to the respondent/plaintiff. There shall be no order as to costs. As a sequel thereto, miscellaneous petitions, if any, pending in this Civil Revision Petition, shall stand closed.

A.RAJASHEKER REDDY, J

03.08.2018
kvs

¹ 2006 (5) ALD 832

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