

HON' BLE SRI JUSTICE C.PRAVEEN KUMAR

CIVIL REVISION PETITION No. 3137 of 2018

ORDER:

The present Civil Revision Petition is filed under Article 227 of the Constitution of India, challenging the order dated 03.04.2018 in I.A.No. 548 of 2018 in O.S.No. 352 of 2015, wherein the request of the 1st respondent herein, to recall PW1 (petitioner) to mark the document, was allowed.

2. Though this revision was filed on 27.04.2018, it was listed on 15.06.2018, but, as there was no representation, it was adjourned by two weeks. Thereafter, the matter was listed on 26.10.2018, on which day, the counsel for the petitioner took time, and thereafter, it is listed today.

3. The suit was filed on 04.11.2015 and written statement was also filed therein. During the course of trial, I.A.No. 548 of 2018 came to be filed by the 1st respondent/plaintiff, stating that he sold the property (house site), which is towards south of the property in dispute, and other property which is near to this property, to one Mangamma for a valuable consideration of Rs.50,00/-, and executed a sale receipt dated 28.02.2011, acknowledging the sale. Thereafter, he is said to have delivered the properties to the said Managamma on the same date, and since then, the said Mangamma, and after her demise, her family members are in possession of the property. To prove the same,

the 1st respondent/plaintiff sought a direction in I.A.No. 548 of 2018 to get the sale receipt dated 28.02.2011 marked by recalling PW1/ petitioner.

4. A counter came to be filed by the petitioner herein, disputing the same. It is stated that if really the plaintiff executed the sale document dated 28.02.2011 in favour of Mangamma, the document should have been in possession of the said Mangamma and after her demise, with her family members, but not with the plaintiff. It is stated that even PW2 did not disclose about the said property.

5. Having regard to the rival submissions made, and since the request of the petitioner was only for releasing the document, the court below observed that there is some force in the argument of the respondents, which will be dealt with when the petitioner comes to court to give his evidence for marking the document. It is further observed that if the petitioner has any strong defence in resisting the marking of the sale receipt, he is at liberty to take the contention at the time of marking the alleged document. Holding so, the court below allowed I.A.No. 548 of 2018. Challenging the same, the present revision is filed.

6. As seen from the impugned proceedings, liberty is given to the petitioner to raise objections for marking of the document at the time of hearing of the suit. Since the application of the plaintiff/ 1st respondent was to receive the document by marking the same through PW1 (petitioner), it can be said that the court

below was right in holding that it is not the stage to decide whether the document can be marked on behalf of the plaintiff or refuse the same.

7. Accordingly, the C.R.P is disposed of, confirming the order passed by the court below. There shall be no order as to costs. Miscellaneous petitions pending, if any, stand closed.

JUSTICE C. PRAVEEN KUMAR

02.11.2018
DMG

