

HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN

Civil Revision Petition No.4363 of 2018

Order:

Aggrieved by the dismissal of an application for recalling P.W.1 for further cross-examination, the defendants in a suit for partition have come up with the above civil revision petition.

2. Heard Mr. V.S.R. Anjaneyulu, learned counsel for the petitioners.

3. In a suit for partition filed by the respondent, the petitioners set up a Will. The Will was marked as Ex.B-1. After the Will was marked, the petitioners took out an application for recalling P.W.1 for further cross-examination. The only reason stated in the Affidavit in support of the application for recalling, is that the defendants 1 and 2 want to put questions revolving around Ex.B-1 Will to the respondent/plaintiff. But the same was negated by the Trial Court. Hence, the present revision.

4. There is a procedure prescribed under the Indian Evidence Act, 1872, for proving a Will. Therefore, the petitioner who set up the Will should prove the Will in accordance with the procedure so established. A Will cannot be proved by a party setting up the Will, by asking questions about the Will to the party denying the existence of such a Will. Therefore, the Trial Court was right in dismissing the application. Hence, the civil revision petition is dismissed.

The interlocutory applications, if any, pending in this revision shall stand closed. No costs.

V.RAMASUBRAMANIAN, J.

03rd August, 2018.
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