

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

C.R.P.No.3058 OF 2017

ORDER:

This revision petition is filed under Article 227 of the Constitution of India challenging the order dated 23.02.2107 in I.A.No.32 of 2017 in O.S.No.1 of 2012 passed by the Judge, Family Court, Kunrnool allowing the application filed under Order 18 Rule 17 C.P.C. to mark one document while refusing to mark other two documents on the ground that they are inadmissible in evidence.

The petitioners filed petition before the Court below to recall PW.1 and mark three documents explaining the reasons for failure to mark the documents in the evidence of PW.1. The trial Court accepted the reasons assigned by the petitioners and accorded permission to recall PW.1 and mark only one document, while refusing to mark other two documents on the ground that Wills dated 03.03.1988 and 22.04.1979 have no direct bearing on the facts in issue. The trial Court is not expected to reject the marking of documents at the threshold and the Court can reject the request only when the documents are tendered and confronted to the witness for marking, if the Court finds that they are relevant for deciding the real controversy between the parties or any other grounds regarding admissibility etc, but the Court committed error in refusing to grant permission to mark Wills, dated 03.03.1988 and 22.04.1979 at the threshold opinionioning that they have no direct bearing on the issue involved in the matter. Therefore, the order of refusal to mark those two documents i.e. wills dated 03.03.1988 and 22.04.1979 is hereby set aside while giving liberty to the Judge, Family Court, Kurnool to decide the relevancy and admissibility of the Wills dated 03.03.1988 and 22.04.1979 at the time of marking the documents.

With the above direction, the civil revision petition is allowed.

There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this petition shall stand closed.

JUSTICE M. SATYANARAYANA MURTHY

29.01.2018
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