

THE HON'BLE SRI JUSTICE A.SHANKAR NARAYANA

CIVIL REVISION PETITION No.6207 of 2012

ORDER:

The present Civil Revision Petitioner, under Article 227 of the Constitution of India, is filed by the respondents 2 and 3 in E.A.No.546 of 2011 in O.S.No.699 of 2009 on the file of the Principal Senior Civil Judge, Kakinada, questioning the order, dated 03.12.2011, passed by the said Court permitting one Yeramati Rambabu to represent the decree holder as power of attorney holder.

Heard Sri S. Siva Bhami Reddy, learned counsel for the petitioners, and Sri T.L. Nayan Kumar, learned counsel for the respondents.

Learned counsel for the petitioners would submit that, in fact, the affidavit filed by the said Yeramati Rambabu would show that the decree holder, Mallireddy Krishnaveni executed a notarized power of attorney in his favour on 16.11.2011, but the contents of the affidavit are affirmed before the Advocate on 18.01.2010 and, thus, the very affidavit and the petition ought not to have been entertained and the request ought to have been rejected. His further submission is that there is no compliance of the provisions of Rule 32 of Civil Rules of Practice, but, still, the Court below, somehow, overlooked the said mandatory provision and permitted the said Yeramati Rambabu to represent the decree holder as power of attorney holder.

Learned counsel for the respondents would submit that the decree holder can rectify the defects by filing fresh applications and also the GPA along with an application as mandated under Rule 32 of the Civil Rules of Practice.

In fact, on perusal of the copy of the affidavit filed in support of E.A.No.546 of 2011, it is clear that what has been stated by the learned counsel for the revision petitioners is true. In paragraph '1' of the affidavit, the date of execution of notarized power of attorney is shown as 16.11.2011, whereas in the certification of the affidavit by the Advocate before whom the deponent affirmed the contents of the affidavit, the date is mentioned as 18.01.2010. Therefore, the petition ought not to have been registered. Besides, there has been no compliance of mandatory provision of Rule 32 of the Civil Rules of Practice.

Hence, the Civil Revision Petition is allowed setting aside the order under challenge remitting the matter to the Principal Senior Civil Judge, Kakinada, East Godavari District, for disposal of E.A.No.546 of 2011 in O.S.No.699 of 2009 afresh by affording an opportunity of being heard to the parties on record and taking into consideration the averments made in the counter affidavit filed by respondents 2 and 3 - revision petitioners.

Miscellaneous petitions if any pending in the present revision stand closed.

JUSTICE A.SHANKAR NARAYANA

06.06.2018
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