

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

Civil Revision Petition No.4870 of 2018

ORDER:

This revision, under Article 227 of the Constitution of India, is preferred against the order passed by the I Additional Chief Judge, City Civil Court, Secunderabad in I.A.No.872 of 2018 in O.S.No.104 of 2011 dated 16.07.2018.

The revision petitioners filed I.A.No.872 of 2018 to send Ex.R1 document, allegedly executed by the 1st respondent-plaintiff, to the handwriting expert for comparison of her disputed signature, with the admitted signature, since the 1st respondent-plaintiff had denied the signature and execution of the said document when it was confronted to her during her cross-examination. In the counter filed in I.A, the 1st respondent-plaintiff stated that she never executed any such document, and the same was brought into existence by the defendants only to deny her legitimate share in the property.

In the order under revision, the Court below observed that the 1st respondent-plaintiff had relied upon a gift deed said to have been executed in her favour by her father during his life time in respect of Plot Nos.1 and 3 admeasuring 468 sq yards to the knowledge of one and all; but the defendants, in order to deprive her right, had sold the property to third parties; and the 1st respondent-plaintiff had filed the Suit claiming 1/6th share in the property. The Court below also noted that the case of the revision petitioners-defendants was that the 1st respondent-plaintiff had executed a document called as a declaration stating that she had

received all that she had to receive; and, as such, she had no claim over her parents' property.

The Court below further observed that the said document was in Telugu, signed by the 1st respondent-plaintiff in English; it was written on a five rupee stamp paper; the plaintiff had a right in the property, as she was one of the children of late Sri Raja Rao; the document, on which reliance was placed, was not properly stamped nor was it registered; it had no legal sanctity, more particularly when the plaintiff had denied both execution and her signature on the said document; in the absence of a duly registered deed, unless the witness admitted having signed the document, it had no validity; and, therefore, sending the document to the Forensic Science Laboratory, for comparison of the signature, was of no avail to the petitioner, even if the Forensic Science Laboratory gave a positive result report.

Sri Y.Ashok Raj, Learned Counsel for the petitioners, would submit that, since the document signed by the 1st respondent-plaintiff was a declaration that she did not have any right over the property, such a document could be received by the Court in evidence; and since the 1st respondent-plaintiff disputed her signature on the said document, the Court below had erred in not sending the document to the handwriting expert.

As noted by the Court below, in the order under revision, the 1st respondent-plaintiff was, admittedly, one of the children of late Sri Raja Rao, and had a right of succession over the subject property along with his other legal heirs. The document which the defendants claimed was executed by her, giving up her share over the property of her father, was neither adequately stamped nor was

it registered. The Court below was justified, therefore, in holding that the contents of the said document could not be looked into.

The jurisdiction which this Court exercises, under Article 227 of the Constitution of India, is supervisory and not appellate; and, save patent illegality in the order under revision, no interference is called for. I see no such infirmity, in the impugned order, necessitating interference in proceedings under Article 227 of the Constitution of India.

The Civil Revision Petition fails and is, accordingly, dismissed. The Miscellaneous Petitions, if any pending, shall also stand dismissed. No costs.

Date:14.09.2018.

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(RAMESH RANGANATHAN, J)

