

The Hon'ble Sri Justice C.V.Nagarjuna Reddy

Civil Revision Petition No.5431 of 2018

Date: 20.09.2018

Between:

Varadapureddi Sanyasi Rao

.. Petitioner

and

Varadapureddy Venkata Narasayyanaidu and 4 others

.. Respondents

Counsel for the Petitioner :

Mr.T.V.Sridevi

The Court made the following:



Order:

The plaintiff in OS.No.24 of 2015, on the file of the Principal Junior Civil Judge at Chodavaram, filed this Civil Revision Petition (CRP) feeling aggrieved by Order, dated 01-09-2016, in IA.No.421 of 2016 filed therein.

The aforementioned suit was filed by the petitioner *inter alia* for declaration of his easementary right over the plaint schedule property for taking men, cattle, vehicles, carts, lorries *etc.* Pending the suit, he has filed the aforesaid IA for summoning one Y.Venkata Ramana Murthy, Advocate, who is also an associate of late C.V.Ramaiah, a notary, who, allegedly, attested the signature of respondent No.3/defendant No.3 in an affidavit, under which the latter, allegedly, conveyed easementary right to the petitioner. This Application having been dismissed by the lower Court, the plaintiff filed the present CRP.

Admittedly, respondent No.3, whose affidavit is sought to be relied upon by the petitioner, is alive. If really the petitioner intends to prove that the said affidavit was executed by respondent No.3, he has to confront the latter with the said affidavit and if she denies, he is entitled to invoke Section 45 of the Indian Evidence Act, 1872, for comparison of her admitted signatures with the disputed signatures on the affidavit. Therefore, seeking summoning of an associate of a notary, who is no more, is wholly misconceived.

The learned Counsel for the petitioner submitted that the Court below has exceeded its jurisdiction in holding that Ex.A.2 itself is not admissible in evidence. I find force in this submission. Once the lower Court has declined the relief of summoning the associate of the notary, it ought not to have proceeded further and given a finding on the admissibility or otherwise of Ex.A.2. The said document having been already been marked as Ex.A.2, the observations regarding the said document made by the lower Court in the order under revision are highly unwarranted.

Therefore, while dismissing this CRP, all the observations regarding the admissibility or otherwise of Ex.A.2 are expunged. This Order, however, will not preclude the respondents from raising the plea of inadmissibility of Ex.A.2 in the suit.

As a sequel to dismissal of the CRP, IA.No.1 of 2018, filed by the petitioner for interim relief, is disposed of as infructuous.

(C.V.Nagarjuna Reddy, J)

Dt: 20th September, 2018
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