

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CIVIL REVISION PETITION No.5512 of 2018

ORDER:

This Civil Revision Petition is filed under Article 227 of the Constitution of India assailing the order dated 09.08.2018 passed in O.S.No.28 of 2017 on the file of the Court of the Senior Civil Judge at Wanaparthy.

2. Heard the learned counsel for both parties.

3. A perusal of the record reveals that respondent Nos.1 to 3 have filed O.S.No.28 of 2017 on the file of the Court of the Senior Civil Judge at Wanaparthy against the petitioners and respondent Nos.4 and 5 for partition of the suit schedule property. The first respondent examined herself as PW.1. At the time of chief examination, PW.1 tendered Ex.A.5 for marking. At that time, the petitioners raised an objection for marking of Ex.A.5. The trial Court overruled the objection raised by the petitioners and marked Ex.A.5. Hence, the revision.

4. The point that arises for consideration in this revision is:

Whether there is any illegality, irregularity or impropriety in the order of the trial Court?

5. Learned counsel for the petitioners strenuously submitted that the document in question is a partition deed.

6. Learned counsel for respondent Nos.1 to 3 submitted that the document in question is not a partition deed. It is only an agreement.

7. The entire case revolves around Ex.A.5. Whether Ex.A.5 is

the partition deed or an agreement for partition of the suit schedule property in future has to be decided by the trial Court. It is needless to say that a partition deed requires registration. If a document, which requires registration, is not registered, it is not admissible. The trial Court, without considering the nature of the document in question, simply marked the document with an observation that the details of the document will be discussed at the time of judgment.

8. In view of the rival contentions, this Court is not inclined to express any opinion with regard to the nature of the document in question.

9. Taking into consideration the facts and circumstances of the case, this Court is of the considered view that it is a fit case to remand the matter to the trial Court to decide the nature of the document in question and proceed in accordance with law.

10. In the result, the Civil Revision Petition is allowed setting aside the order dated 09.08.2018 passed in O.S.No.28 of 2017 on the file of the Court of the Senior Civil Judge at Wanaparthi. The trial Court is hereby directed to decide the nature of the document in question i.e., Ex.A.5 and proceed further in accordance with law. There shall be no order as to costs.

11. Consequently, Miscellaneous Petitions, if any, pending in this Civil Revision Petition shall stand closed.

T.SUNIL CHOWDARY, J

Date: 24.09.2018
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