

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

C.R.P.No.5549 of 2017

ORDER:

Heard learned counsel for the petitioner. Though Sri K.N.Mohan, Advocate took notice and filed vakalat for the 1st respondent, he did not appear either in the morning or in the afternoon. In view of the same, civil revision petition is disposed of at the stage of admission.

The petitioner is the 1st defendant in O.S.No.45 of 2008 on the file of the learned Principal Junior Civil Judge, Kavali. The suit was filed by the 1st respondent for perpetual injunction. When the chief examination of DW.1 was going on, he filed unstamped and unregistered document dated 05.07.2000 styled as Memorandum of Partition. The Court below disallowed the production of the said document on the ground that it is not admissible in evidence by order dated 04.07.2017, while posting the case for continuation of the chief examination of DW.1 to 21.07.2017. Challenging the said order, the present revision petition is filed.

There is no dispute that the Memorandum of Partition sought to be adduced in evidence is totally unstamped and unregistered document. Learned counsel for the petitioner placing reliance on the decisions of the Supreme Court in **Avinash Kumar Chauhan v Vijay Krishna Mishra** (Civil Appeal No.7350 of 2008) and the decisions of this Court in **Pallapothu Naga Prasad and others v Pallapothu Venkata Krishna Rao**¹ and **Moghal Sardar Hussain Baig v Syed Farveej Begum**² submitted that unregistered document can be received in evidence for collateral purpose, but he could not satisfy this Court with regard to the acceptance of the document, which is unstamped.

In view of the same, this Court does not find any irregularity in the order passed by the Court below. But however, the

¹ 2003(1) ALD 251

² 2017 (3) HLT 582

petitioner seeks permission to pay required stamp duty and penalty, if the document is impounded. If that is so, it is for the petitioner to take appropriate steps in accordance with law.

With the above observation, the civil revision petition is dismissed. There shall be no order as to costs.

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

A.RAMALINGESWARA RAO,J

DATED: 21.03.2018

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