

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

CIVIL REVISION PETITION No.5813 OF 2017

ORDER :

This revision is filed against the order dated 08.08.2017, passed in IA.No.801/2017 in OS.No.217/2010 by the IV Additional District Judge, Tanuku, wherein and whereby the application filed by the petitioner/2nd defendant under Section 65 of the Evidence Act, to receive the photo copy of the statement of the 1st defendant, is dismissed.

Learned counsel for the petitioner submits that though the Tahasildar in his proceedings dated 20.07.2017 clearly stated that out of two documents which are sought to be marked by the petitioner i.e. 1) Statement of 1st defendant recorded by the Revenue Inspector in the present of VRO, Velpur on 19.07.2010 and 2) Confirmation of Residence submitted by Ramesh Babu and the Certificate issued by MRO, Tanuku dated 14.11.1995, the first document is not traced in the office and as far as the 2nd Document is concerned, it is not available in his office as the same is destroyed within one year from the date of issuance, the Court below erroneously dismissed the petition.

On the other hand learned counsel for respondent No.1 submits that as held by the Court below though the Tahasildar, Velpur, filed memo stating that the first document is not traced, it is not mentioned that the said document is lost or destroyed. More so, there is no substantial evidence to prove that the Revenue Inspector, Velpur, recorded the statement of mother of the

petitioner while issuing Pattadar Pass Books. As such, the Court below rightly dismissed the application.

In this case it is to be seen that as rightly pointed out by the Court below no substantial evidence is produced by the petitioner to prove that the Revenue Inspector recorded the statement of mother of the petitioner while issuing pattadar pass book and now the petitioner is trying to mark the Xerox copy of the said statement in the suit. As such, question of receiving it as secondary evidence may not arise. As far as document No.2 which is sought to be marked by the petitioner is concerned, the relevance of the same for deciding the suit for partition, was not pointed out to this Court. In view of the same, I do not see any error in the order passed by the Court below. When petitioner is relying on the 'Will', it is for them to prove the same, in accordance with law.

Accordingly, the CRP is dismissed. No order as to costs.

As a sequel thereto, miscellaneous applications, if any, pending in the CRP, shall stand closed.

A.RAJASHEKER REDDY, J

26.02.2018
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