

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

CIVIL REVISION PETITION No.7280 OF 2017

ORDER :

This Civil Revision Petition is filed challenging the written endorsement dated 31.07.2017 in E.A (SR) No.1332 of 2016 in E.P.No.157 of 2007 in O.S.No.9 of 2007 on the file of the Junior Civil Judge, Chintalapudi, West Godavari District, wherein the claim petition filed by the petitioner under Section 47, Order 21, rules, 58, 89 & 92 and Section 151 of CPC is rejected.

Heard learned counsel for the petitioner.

On 18.07.2017, the Court below returned the application with the following objections.

- “(1) Plaint schedule property and the E.P schedule property are not one and the same.
- (2) On what basis claimant says that claim schedule property is ancestral whether the any documentary evidence to prove it has to be filed.
- (3) How GPA holder files petition for the case pertaining to another. Hence returned.”

By complying the aforesaid objections, petitioner resubmitted the application on 25.07.2017 submitting as follows:

“It is humbly submitted that the E.P schedule property originally belongs to grand father of claim petitioner herein by name late Prathi Lakshmi Narasimha Rao, who had three sons, all are orally got portioned, accordingly the E.P schedule property fell into the share of the JDR and the petitioner is the daughter of the JDR, in pursuance of succession, by birth the petitioner got a share with the JDR which is joint forever till division, succession is birth is evidence under law, to question the validity the share by filing the claim petition as rightful owner/co-sharer.

The petitioner residing abroad an absolute land-lord/joint co-owner of the E.P schedule property, unable to look after the property litigation everyday, petitioner executed G.P.A filed present petition by the G.P.A along with permission petition under S.R.No.1334/2016 dated 11.08.2016 along with main claim petition on behalf of the owner/power executant. Therefore, the GPA holder is entitled to file the petition on behalf of the original owner by protecting her rights over the E.P schedule property by way of this petition. The petitioner filed the certified copy of R.S.R of Yerraguntapalli village before the principle senior civil judge court at Eluru as Doc No.3 of the suit

O.S.No.124/2013. The office copy of the suit is filed along with the claim petition S.R.No.1332/2016. Now this petitioner is filing a Xerox copy of R.S.R copy of Yerraguntapalli and she will file certified copy before this Honourable court at the time of enquiry.

It is humbly submitted the E.P schedule and claim petition schedule suit schedule are one and the same. There is no difference.

Therefore, the Honourable court may be pleased to number the petition.”

The Court below again returned the same on 31.07.2017 with the following endorsement.

“Previous objections not complied to the satisfaction of the Honourable court. Hence returned.”

Learned counsel for the petitioner submits that all the objections raised by the Court below on 18.07.2017 have been complied with and resubmitted the same on 25.07.2017. He submits that the suit schedule property in the EA filed by the petitioner and the EP schedule property are one and the same and the claim petition is filed by General Power of Attorney holder by filing a necessary affidavit and that in spite of the same, the Court below returned the same.

In this case, *prima facie* it appears that though the petitioner resubmitted the application on 25.07.2017 by complying all the objections, the court below returned the same making an endorsement that previous objections were not complied with. A perusal of the EA filed by the petitioner shows that the EA schedule property and EP schedule property are one and the same. Since it is stated that EA has been filed through GPA along with necessary affidavit, the Court below ought to have verified the same and afforded an opportunity to the petitioner and passed orders.

In view of above facts and circumstances, the matter is remanded back to the court below and the Court below is directed afford an opportunity of hearing to the petitioner and also to verify the affidavit filed by GPA holder along with EA and dispose of the same in accordance with law.

With the above direction, this Civil Revision Petition is disposed of. There shall be no order as to costs. As a sequel thereto, miscellaneous petitions, if any, pending shall stand closed.

15-02-2018
kvs



A.RAJASHEKER REDDY, J

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