

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

CRP.No.511 of 2019

ORDER:

This Revision is filed challenging the order dt.30.10.2018 in I.A.No.913 of 2018 in O.S.No.41 of 2013 of the I Additional District Judge at Khammam permitting the 1st respondent to prosecute the said suit through his son by allowing the application filed under Order XXXII of the Civil Rules of Practice.

2. It is the contention of the 1st respondent's son that the 1st respondent is in sound mind at the time of filing of the above suit, but since January, 2017 due to old age, he developed dementia and so he executed the GPA in his favour so that he can proceed and prosecute the suits filed by his father i.e, O.S.No.41 of 2013 before the I Additional District Judge at Khammam and O.S.No.509 of 2013 before the Principal Senior Civil Judge at Khammam.

3. This application was opposed by the petitioners herein on the ground that 1st respondent is not of sound mind and the GPA is therefore nonest.

4. It is important to note that the suits in question had been filed in 2013 itself, when the 1st respondent was in a position to prosecute them and merely because subsequently he developed dementia, it cannot be said that his son cannot continue to prosecute the suits on the basis of the GPA executed by him.

5. It cannot be said that dementia is unsoundness of mind as is being contended by the petitioners herein. The other plea raised by the petitioners was that the 1st respondent was residing at Nellore District and some properties were also situated in Nellore, but the Court below has recorded a finding that the properties which are subject matter of the suits are located not only in Nellore but also in Prakasham and Khammam Districts and as per Section 17 CPC, 1st respondent can prosecute the case in any of the above three places.

6. I therefore do not find any error of jurisdiction in the order passed by the Court below warranting interference of this Court under Article 227 of the Constitution of India.

7. Accordingly, this Civil Revision Petition fails and it is dismissed. No order as to costs.

8. Consequently, miscellaneous petitions pending if any, shall stand closed.

M.S. RAMACHANDRA RAO, J

04th June, 2019.

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