

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

CRP.No.1245 of 2019

O R D E R:

Heard counsel for petitioner, Sri Srinivas Velgapudi, counsel for respondents 1 to 5, and Sri Meherchand Nori, counsel for respondents 13 and 15. Respondents 7 to 12 and 14 are stated to be not necessary parties. Notice to 6th respondent sent by the petitioner was returned with endorsement 'not claimed' and so he is deemed to be served.

2. This Civil Revision Petition is filed under Article 227 of the Constitution of India challenging the order dt.09.04.2019 in I.A.No.356 of 2019 in O.S.No.87 of 2011 of the XIII Additional District & Sessions Judge at L.B.Nagar at Ranga Reddy District.

3. Petitioner herein is plaintiff in the suit. She filed the said suit for partition of the plaint schedule properties and for separate possession.

4. Petitioner while getting examined as PW1, filed an application I.A.No.356 of 2019 to get summons issued to the Military Estates Officer now Defence Estates Officer, A.P. Circle (Telangana), Secunderabad to produce the original/certified copy of Lease Deed dt.21.09.1973 executed by late Smt B.Radhamma, grand-mother of the petitioner, in favour of his Excellency the President of India represented by Military Estates Officer, A.P. Circle, Secunderabad on 21.09.1973 in respect of the land in

survey Nos.602 and 603 admeasuring Acres 32.55 guntas, which is items 30 and 31 of the plaint schedule.

5. She alleged that the lease amount had been stopped by the said Department in view of the pendency of a Writ Appeal No.900 of 2010 before this Court in respect of part of the said land; that though the said lease had expired, the Military authorities are still in possession of the land; that petitioner tried to get a certified copy of the lease deed from the Military Estates Officer, but he declined to give it in view of the pendency of the said writ appeal; that under Right to Information Act, 2005, a copy of the Lease Deed executed by Smt B.Radhamma was furnished by the Defence Estates Officer, but the respondents are objecting to it's marking on the ground that it is only a photocopy and not a certified copy; and that therefore, it is necessary to summon the Military Estates Officer, A.P. Circle, Secunderabad (now Defence Estates Officer, A.P. Circle (Telangana), Secunderabad) to produce the original and certified copy of the Lease Deed dt.21.09.1973 executed by the petitioner's grand-mother in his favour and to give evidence in respect of the same.

6. Counter affidavit was filled by the 3rd respondent herein on behalf of respondents 1 to 5 opposing the said application. He contended that it was a frivolous application intended to drag on the suit. He stated that since petitioner had already filed certified copy of the Lease Deed dt.21.09.1973, no purpose would be served by summoning the said record.

7. By order dt.09.04.2019, the Court below dismissed the said application. It observed that though the petitioner had filed only photocopy issued under Right to Information Act, 2005 and not a certified copy, the respondents 1 to 5 are stating that it is a certified copy and when they are admitting it to be a certified copy there is no necessity to allow this application.

8. Assailing the same, this Revision is filed.

9. It is the contention of the counsel for petitioner that private documents are to be taken on record only after laying foundation under Section 65A to C of the Indian Evidence Act, 1872, and this would apply to true copies obtained under Right to Information Act, 2005 also. He also states that though petitioner filed copy of the Lease Deed obtained under the Right to Information Act, 2005, respondents' line of cross-examination is that it is not a certified copy issued by the proper authority, and to avoid complications in future regarding the evidentiary value of the said document, this application is required to be allowed.

10. Counsel for the respondents refuted the said contentions and supported the order passed by the Court below.

11. It is not in dispute that land in survey Nos.602 and 603 is mentioned as Item Nos.30 and 31 in the plaint schedule in the suit filed by the petitioner for partition and separate possession. It is also mentioned in the plaint schedule that this land is Military land. The parties on either side admit that a Lease Deed

was executed by Smt B.Radhamma in favour of his Excellency the President of India represented by Military Estates Officer, A.P. Circle, Secunderabad on 21.09.1973 in respect of the said land. It is also stated by all the parties that though the lease expired, possession of the said land is still with the Government of India.

12. Since the suit is one for partition of the said land also, it is necessary to place on record all the material to help the Court below to adjudicate the suit.

13. If the petitioner is unable to obtain the certified copy of the said Lease Deed from the office of the Defence Estates Officer, A.P. Circle (Telangana), Secunderabad and when the copy, obtained under Right to Information Act, 2005 from the said office, produced by him is being disputed by the respondents, grave prejudice would be caused to the petitioner, if I.A.No.356 of 2019 is not allowed and summons is not issued to the Defence Estates Officer, A.P. Circle (Telangana), Secunderabad, to produce the original or certified copy of the said Lease Deed and also receipts evidencing payment of lease amount to Smt B.Radhamma and late Sri S.P.Bhaskar Rao.

14. All procedure is handmaid of justice and technical objections cannot come in the way of doing substantive justice.

15. Therefore, this Civil Revision Petition is allowed; the order dt.09.04.2019 in I.A.No.356 of 2019 in O.S.No.87 of 2011 of the XIII Additional District & Sessions Judge at L.B.Nagar at Ranga

Reddy District is set aside; and the said I.A. is allowed. No order as to costs.

16. Consequently, miscellaneous petitions pending if any, shall stand dismissed.

M.S. RAMACHANDRA RAO, J

19th August, 2019.

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