

THE HONOURABLE SRI JUSTICE M.S. RAMACHANDRA RAO

C.R.P. No.4956 of 2015

ORDER:

This Revision Petition is filed challenging the order dt.25.09.2015 passed by the XIII Additional Chief Judge (FTC), City Civil Court, Hyderabad in O.S. No.331 of 2010 directing the Advocate Commissioner, appointed by the Court, to record evidence to mark an unregistered settlement deed dt.05.05.1993 and a additional settlement deed dt.09.06.1993.

2. The petitioners are defendants in the suit. During the evidence of P.W.1, the respondent sought to mark the above two documents and this was objected to by petitioners. Since the evidence was being recorded by the Advocate Commissioner, he recorded the objection and referred the matter to the Court. The Court then passed the following order:

“Heard both parties. The Commissioner is directed to mark the documents as ‘subject to objection’. At request of both parties as last chance 26-10-2015.”

3. Assailing the same, this Revision Petition is filed.

4. Counsel for the petitioners contended that when objections are raised regarding the admissibility of documents on the ground that they are insufficiently stamped and that they also require registration, the Court below cannot put off the said objection, and allow the marking of the documents.

5. Counsel for the respondent however, contended that earlier when these two documents were sought to be filed by the petitioners vide I.A. No.632 of 2012, said application was allowed on 11.12.2013 and in that order the Court had observed that the documents may be received in evidence and referred to a citation 2012 (4) ALT, Page No.10; and once the said order is not challenged by the petitioners, they cannot now challenge the impugned order.

6. It is the contention of the petitioners that the documents filed by the respondents are insufficiently stamped and are unregistered. Merely because the Court had vide order dt.11.12.2013 in I.A. No.632 of 2013 permitted the respondents to submit the documents and receive the same, it cannot be said that the Court had decided on the objections as to admissibility of the documents, because from the said order it is clear that the petitioners did not appear before the Court. It is not necessary for the Court to go into the admissibility of the documents at the stage when it is considering whether or not to receive them in evidence and therefore, the order passed on 11.12.2013 in I.A. No.632 of 2012 cannot be said to be a decision of the Court on the admissibility of the documents.

7. It is the settled law when objections are raised about the admissibility of documents particularly on the ground of insufficiently stamp, the said objection has to be decided and the same cannot be postponed to a later date. **(Ram Rattan (died) by LRs Vs. Bajarang Lal)**¹ Therefore, the Court below is not correct in holding that the Advocate Commissioner shall mark the documents subject to objection.

¹ 1978 (3) SCC 236

8. Accordingly, this Revision Petition is allowed. The order dt.25.09.2015 passed in O.S. No.331 of 2010 is set aside and the Court below is directed to decide the objection raised by the petitioners to the admissibility of the said documents, after hearing both the sides and then only proceed further in the matter. Further, since the suit is of the year 2010, the Court below shall decide the matter, as expeditiously as possible, preferably within a period of six months, from the date of receipt of a copy of this order. There shall be no order as to costs.

9. As a sequel, miscellaneous applications, if any, pending shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 23.04.2019
LSK

