

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER
CIVIL REVISION PETITION Nos.6103 AND 2941 OF 2018

COMMON ORDER:

Since the subject matter, parties and the suit out of which these civil revision petitions arise are one and the same, they are being heard and disposed of together.

2. These Civil Revision Petitions, under Article 227 of the Constitution of India, are filed by the petitioners/defendants, aggrieved by the docket orders, dated 29.03.2018 and 04.04.2018 passed in O.S.No.527 of 2009 by the learned I Additional Senior Civil Judge, Warangal, wherein the Court below declined to allow the revision petitioners/defendants to mark certain documents dated 26.08.1986, 18.06.1993 and 06.09.1995 for collateral purpose.

3. Heard learned counsel for both sides and perused the record.

4. Learned counsel for the revision petitioners/defendants would submit that though there is a sale transaction in the aforementioned documents, the revision petitioners wanted to mark them only for collateral purpose, i.e., to show their nature of possession over the disputed property. The deficit stamp duty and penalty was assessed and already paid in respect of those documents. In support of his plea, learned counsel for the revision petitioners relied on the decisions reported in *YELLAPU*

*UMA MAHESWARI V. BUDDHA JAGADHEESWARA RAO*¹ and *BONDAR SINGH V. NIHAL SINGH*².

5. On the other hand, learned counsel for the respondent/plaintiff would contend that those documents convey title to the property. Therefore, they cannot be marked in the suit for declaration of title and permanent injunction. In support of his plea, he relied on the decisions reported in *K.B.BASHA AND SONS PRIVATE LIMITED V. DEVELOPMENT CONSULTANT LIMITED*³ and *VENGALAPUDI MANGA V. PALURI KANNABBAI AND OTHERS*⁴.

6. The petitioners/defendants want to prove their possession over the suit schedule property by filing the documents dated 26.08.1986, 18.06.1993 and 06.09.1995 and sought to mark the same for collateral purpose only. The said documents were not intended to be marked for conveyance of title to the suit schedule property in favour of the revision petitioners/defendants. The Hon'ble Apex Court, in *YELLAPU UMA MAHESWARI* and *BONDAR SINGH*'s cases (1 and 2 supra) held that unstamped instrument is not admissible in evidence even for collateral purpose, until the same is impounded. Once penalty and stamp duty is paid, the said document can be marked in evidence for collateral purpose to see the nature of possession of the party/parties claiming

¹ (2015)16 SCC 787

² (2003)4 SCC 161

³ 2008(6) ALD 92(SC)

⁴ 2013(5) ALD 172

possession. The facts and circumstances referred in *VENGALAPUDI MANGA's* case (4 supra) about the nature of suit are distinguishable from the facts and circumstances of the case on hand. In the said decision, it was made clear that the petitioner intends to rely upon the documents in question to prove her title to the suit schedule property but not for any other purpose. Therefore, the subject document therein cannot be looked into even for collateral purpose.

7. In the given circumstances, the impugned docket orders dated 29.03.2018 and 04.04.2018 passed in O.S.No.527 of 2009 by the learned I Additional Senior Civil Judge, Warangal, were set aside and the revision petitioners/defendants are permitted to mark the subject documents dated 26.08.1986, 18.06.1993 and 06.09.1995 for collateral purpose.

8. The Civil Revision Petitions are disposed of accordingly.

The Miscellaneous Petitions, if any, pending shall stand closed. No costs.

Dr. SHAMEEM AKTHER, J

Date: 10.12.2019
ssp