

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

Civil Revision Petition No.3842 of 2018

ORDER :

This Civil Revision Petition is filed under Article 227 of the Constitution of India challenging the order dt.12.03.2018 passed in I.A.No.406 of 2017 in O.S.No.131 of 2013 on the file of the Senior Civil Judge, Ranga Reddy District.

2. The petitioner herein is defendant in the above suit.
3. The said suit was filed by the respondent, who is the mother of the petitioner, against the petitioner for declaration that a registered Gift Deed bearing Document No.1728 of 2002 dt.16.08.2002 being relied upon by the petitioner was not executed by the respondent, to declare it null and void and for perpetual injunction.
4. The respondent contended in the suit that the petitioner had got created the said document in order to grab the suit schedule property by impersonation.
5. The respondent filed I.A.Nos.102 of 2015, 103 of 2015 and 104 of 2015 before the Court below to take thumb impressions, call for the thumb impression register along with the office copy of the Gift Deed, and to get a fingerprint expert to compare the thumb impression on the Gift deed with that of the respondent.
6. These applications were allowed.

7. Thereafter, petitioner filed CRP.Nos.2062 of 2015, 2064 of 2015 and 2073 of 2015 before this Court which dismissed the Revisions as infructuous.

8. The respondent then filed I.A.No.24 of 2016 to call for and to receive the Gift Settlement Deed dt.16.08.2002, but later withdrew it.

9. She then filed I.A.No.406 of 2017 to call for and receive the original thumb impression register pertaining to the said Gift Deed dt.16.08.2002 maintained by the Sub-Registrar, Thandoor.

10. In the said application, she contended that the said original thumb impression register which is available with the Sub-Registrar is necessary and the said Register has to be called for and received for inspection so that it can be sent to the finger print expert for opinion, and for comparison to ascertain the genuineness and authenticity of the thumb impressions on the Gift Settlement Deed dt.16.08.2002.

11. This application was opposed by the petitioner who contended that the Court can only summon records which are in custody of itself or other Court and not from third-party officials. He also contended that the Gift Deed in question had already been cancelled and it was impersonated by the petitioner's elder brother with the help of third-parties and a Crime No.213 of 2012 was already registered against his elder brother. He also contended that before impounding documents, the Trial Court should satisfy itself that the documents are required for the purpose of determining the issue raised in the suit or not. Lastly,

he also contended that the respondent had earlier filed I.A.No.103 of 2015 which was decided by the Court below and the said order was also confirmed in Civil Revision Petition Nos.2062, 2064 and 2073 of 2015 and the issue cannot be re-opened.

12. By order dt.12.03.2013, the Court below allowed the said application.

13. It observed that though the respondent had earlier filed I.A.No.24 of 2016 to call for and to receive the Gift Deed dt.16.08.2002, she had withdrawn it and the question of application of *res judicata* does not arise. It also observed that the Court is of the view that it is just and necessary to call for the thumb impression available with the Sub-Registrar, Thandoor in his Register to know the genuineness and authenticity of the thumb impression which is in dispute, and the contentions raised by the petitioner cannot be considered at this stage.

14. Challenging the same, the present Civil Revision Petition is filed.

15. Though the counsel for petitioner sought to contend that the impugned order cannot be sustained since the Gift Settlement Deed itself was cancelled in the year 2009, and there was alleged impersonation by the elder brother of the petitioner and there is no necessity for the Court to go into the genuineness of the thumb impression, since it is the contention of petitioner that it was the

petitioner who impersonated her at the time of getting the document dt.16.08.2002 executed, the Court below did not commit any error of jurisdiction in allowing the I.A. so that it can form an opinion as to the genuineness and authenticity of the thumb impression available on the Gift Settlement Deed dt.16.08.2002 by summoning from the Sub-Registrar, Thandoor, the thumb impression Register.

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

17. As a sequel, miscellaneous petitions pending if any in this Civil Revision Petition, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 23.04.2019

Ndr/*

