

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

C.R.P.No.5421 of 2018

O R D E R:

Heard counsel for petitioner and Sri Bankatlal Mandhani,
counsel for respondent.

2. This Revision is filed assailing the order dt.11.09.2018 in O.S.No.186 of 2012 of the I Additional Chief Judge, City Civil Court, Secunderabad, refusing to mark a document described as Settlement Agreement dt.14.02.1996.

3. Counsel for the petitioner contends that the impugned order is bereft of reasons and that when the petitioner wants to mark the said document only for collateral purpose of proving petitioner's possession of the property which is mentioned therein, the Court below could not have stated that because the document is not registered it cannot be marked for collateral purpose.

4. Counsel for respondent supported the order passed by the Court below.

5. I have noted the contentions of both sides.

6. The impugned order reads as follows:

“ Perused the document intended to be marked. Since it is a relinquishment deed, it is compulsorily registrable and falls within the ambit of Section 17(B).

Since the document is not registered, it cannot be marked. Hence rejected. For marking the other

documents and for cross examination of DW-1 call on 20/09/2018.”

7. A reading of the said order indicates that no reasons are assigned by the Court below to come to the conclusion that the document is a Relinquishment Deed. Further reason given by the Court below that the document being unregistered it cannot be marked is erroneous in law, because as per the proviso to Section 49 of the Registration Act, 1908 even an unregistered document can be received in evidence of any collateral transaction/collateral purpose.

8. In the instant case, it is the case of the petitioner that he wishes to mark the said document to prove his possession, which is undoubtedly a collateral purpose. Therefore, the impugned order cannot be sustained.

9. Accordingly, this Civil Revision Petition is allowed; the impugned order dt.11.09.2018 in O.S.No.186 of 2012 of the I Additional Chief Judge, City Civil Court, Secunderabad, is set aside; and the Court below is directed to permit the petitioner to mark the said document for collateral purpose of proving petitioner's possession of the property mentioned therein and for no other purposes. No order as to costs.

10. Consequently, Miscellaneous petitions pending if any shall stand dismissed.

M.S. RAMACHANDRA RAO, J

06th February, 2019.

gra