

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

Civil Revision Petition No.5928 of 2018

ORDER:

This Civil Revision Petition, under Article 227 of the Constitution of India, is filed by the petitioners/plaintiffs, challenging the order, dated 10.08.2018, passed in I.A.No.316 of 2018 in O.S.No.47 of 2005, by the Senior Civil Judge at Gadwal, whereby, the petition filed by the respondent Nos.1 and 2 herein/defendant Nos.2 & 3, under Sections 33, 34 and 40 of the Indian Stamp Act, 1899, and Section 151 of CPC seeking to send the unregistered partition deed, dated 09.03.1989, to District Registrar, Mahabubnagar, for impounding the same, was allowed.

2. Heard the learned counsel for the revision petitioners/plaintiffs and perused the record. In spite of service of notice on the respondent No.2/defendant No.3, there is no representation on her behalf. None appeared on behalf of respondent No.1/defendant No.2.

3. The learned counsel for the revision petitioners/plaintiffs would contend that the unregistered partition deed, dated 09.03.1989, cannot be received in evidence. On earlier occasion, the same Court declined to mark the said document in evidence. Therefore, the Court below is not justified in passing the impugned order and ultimately prayed to set aside the order under challenge and allow the Civil Revision Petition as prayed for.

4. The material placed on record reveals that earlier, the unregistered partition deed, dated 09.03.1989, was not impounded and it was tendered in evidence. Therefore, the Court below declined to mark the same in evidence. Now, the subject I.A.No.316 of 2018 is filed to send the subject unregistered partition deed to the District Registrar for impounding the same and the Court below was pleased to allow the said application. While passing the impugned order, the Court below observed that an unregistered document deed, though not admissible to prove the terms of the partition, can be admitted in evidence for proving the division in status and the nature and character of the possession of the shares, subject to payment of requisite stamp duty or penalty, as the case may be. This Court is in agreement with the findings recorded by the Court below in the subject interlocutory application. There is no perversity in the order under challenge. The Civil Revision Petition is devoid of merit and is liable to be dismissed.

5. In the result, the Civil Revision Petition is dismissed. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this CRP, shall stand closed.

Dr. SHAMEEM AKTHER, J

18th December, 2019
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