

HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

C.R.P.No.5967 of 2018

ORDER:

This Revision Petition is filed under Article 227 of the Constitution of India challenging the order dt.10-09-2018 passed in I.A.No.233 of 2018 in O.S.No.69 of 2011 of the Senior Civil Judge, Mahabubabad.

2. The said suit was filed by the petitioner against respondents for declaration of her title and for perpetual injunction restraining respondents from interfering with her alleged possession and enjoyment of the suit schedule property. In the suit, the petitioner was originally represented by her father who has General Power of Attorney executed by her. After the death of the father of the petitioner, the petitioner executed Special Power of Attorney in favour of her elder sister and filed I.A.No.233 of 2018 under Order III Rule 3 (i) read with Section 151 CPC to permit her Special Power of Attorney Holder to represent her.

3. Counter affidavit was filed by the respondents opposing the said application and pointing out that the date of its execution was not mentioned therein.

4. This objection was upheld by the court below.

5. Assailing the same, this Civil Revision Petition is filed.

6. Learned counsel for the petitioner contends that though on the first page of the Special Power of Attorney, the date is not mentioned, on the second page of the Special Power of Attorney, it is clearly mentioned that it was executed on 20-01-2018 and therefore Court below is not correct in refusing to permit the Special Power of Attorney Holder to represent the petitioner.

7. Though the learned counsel for the respondents supported the order passed by the Court below, having regard to the fact that in the second page of the Special Power of Attorney executed by the petitioner in favour of her elder sister, the date is clearly mentioned as 20-01-2018 and it was executed in USA before a Notary Public and since the petitioner is a resident of USA and requires the assistance of Special Power of Attorney to prosecute the suit in India, the order dt.10-09-2018 in I.A.No.233 of 2018 in O.S.No.69 of 2011 of the Senior Civil Judge, Mahabubabad, is set aside; and the said I.A. is allowed and the petitioner is permitted to be represented by her Special Power of Attorney Holder viz., Smt. Akula Hymavathi.

8. Accordingly, the Civil Revision Petition is allowed. No costs.

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

JUSTICE M.S.RAMACHANDRA RAO

Date: 20-02-2019
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