

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

Civil Revision Petition No.6055 of 2018

ORDER :

Heard both sides.

2. This Civil Revision Petition is filed challenging the order dt.26.06.2018 passed in I.A.No.397 of 2017 in O.S.No.583 of 2015 on the file of the Principal Junior Civil Judge, Ranga Reddy District, at L.B. Nagar.

3. The petitioner herein is son of 1st respondent.

4. The 1st respondent filed the said suit against respondent nos.2 and 3 for a perpetual injunction restraining respondent nos.2 and 3 from interfering with her alleged possession and enjoyment of the suit schedule property.

5. Thereafter, the 1st respondent executed a Special Power of Attorney on 15.04.2017 in favour of petitioner who is her son stating that she owns the suit schedule property, and that petitioner who is her son has been taking care of the same and he is the proper person to act on her behalf. In fact, it is also stated therein that the 1st respondent had undergone cataract surgery on 22.03.2017 at Vijayawada, and she is unable to personally participate in the suit proceedings.

6. Relying on the Special Power of Attorney dt.15.04.2017, the petitioner filed I.A.No.397 of 2017 to permit him to represent the 1st respondent in the said Court to conduct proceedings in the suit.

7. In the affidavit filed in support of the said application the petitioner specifically asserted that ever since the purchase of the suit schedule property by the 1st respondent, he is looking after the same, and he knows the details about the title, possession and enjoyment, and is the proper person to give evidence, while the 1st respondent is aged person and had also undergone a cataract surgery and is not able to come and give evidence.

8. Counter-affidavit was filed by respondent nos.2 and 3 opposing the said application disputing the fact that petitioner is the son of 1st respondent, and contending that he had no knowledge about the suit schedule property. They also contended that they are in possession and enjoyment of the subject property since 1989. It is also contended that petitioner had no knowledge about the suit and is not a proper party.

9. By order dt.26.06.2018, the Court below dismissed the said application. After referring to the contentions of both sides, it noted that the application was filed by her on 29.06.2018 which was long after the date when the 1st respondent had undergone cataract surgery on 22.03.2017, and therefore, there was no difficulty for the 1st respondent to give evidence. It also stated that there is nothing filed by petitioner to prove that he is the son of 1st respondent.

10. Assailing the same, the present Civil Revision Petition is filed on 10.10.2018.

11. While directing '*Notice Before Admission*', this Court granted interim stay of all further proceedings in the suit.

12. Sri B. Shekar Yadav filed *Vakalat* on behalf of respondents, but he has not appeared before this Court to-day to submit any arguments on behalf of respondent nos.2 and 3.

13. The counsel for petitioner contended that the 1st respondent is the mother of petitioner and she is approximately aged 70 years and being her son, the petitioner was looking after the affairs of the subject property of 1st respondent, and therefore, the Court below ought not to have dismissed I.A.No.397 of 2018.

14. I find considerable force in the said submission.

15. If the petitioner is the son of 1st respondent and 1st respondent is almost aged 70 years, normally she would not be in a position to manage the affairs relating to the property and would take the assistance of male members of the family.

16. Therefore, in the fact and circumstances of the case, the Court below ought not to have dismissed I.A.No.397 of 2018.

17. Accordingly, the Civil Revision Petition is allowed. The order dt.26.06.2018 passed in I.A.No.397 of 2017 in O.S.No.583 of 2015 on the file of the Principal Junior Civil Judge, Ranga Reddy District, at L.B. Nagar is set aside; and the said I.A. is allowed subject to the condition of petitioner producing evidence that he is the son of the 1st

respondent at the time he gives evidence in the Court. No order as to costs.

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

JUSTICE M.S.RAMACHANDRA RAO

Date: 26.06.2019

Ndr/*

