

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

CRP.No.7302 of 2018

ORDER:

This Revision is filed under Article 227 of the Constitution of India challenging the order dt.10.10.2018 in I.A.No.173 of 2017 in O.S.No.72 of 2016 of the Additional Junior Civil Judge, Husnabad.

2. Petitioner herein is the plaintiff in the above suit.

3. He filed the said suit against the respondents to declare a registered Sale Deed bearing document No.928/2013 dt.22.03.2013 registered with the office of the Sub-Registrar, Husnabad executed by the 2nd respondent in favour of 1st respondent by impersonating the petitioner, that it is null and void, and to cancel and set it aside; and also to direct the respondents to handover the original Sale Deed bearing document No.2627/1992 dt.02.12.1992 to him.

4. In the plaint it is alleged that petitioner is an employee in Singareni Collieries Company and the 1st respondent is his brother-in-law. He alleged that a registered sale deed bearing document No.2627/1992 was executed in petitioner's favour on 02.12.1992 by one Ragi Krishna Murthy in the office of the Sub-Registrar, Husnabad and possession of the plot was also delivered to him; that since he wanted to raise money, he gave the same to his brother-in-law, who is the 1st respondent; that he came to

know in the last week of April, 2013 that 1st respondent entered into criminal conspiracy with the 2nd respondent and other persons to grab the plot of the petitioner; and that by impersonating the petitioner, the 2nd respondent executed a sale deed on 22.03.2013 in favour of the 1st respondent.

5. It is also not in dispute that the petitioner gave a complaint to the Station House Officer, Husnabad Police Station, who registered a crime No.144/2013 dt.04.07.2013 against the respondents and others under various provisions of the Indian Penal Code and the Investigating Officer in the said case recovered petitioner's original registered Sale Deed bearing document No.2627/1992 on 02.12.1992 as well as the disputed document No.928/2013 dt.22.03.2013 from the possession of the 1st respondent.

6. Petitioner filed I.A.No.173/2017 to call for the said original sale deed bearing document No.2627/1992 dt.02.12.1992 and document No.928/2013 dt.23.02.2013, which are now subject matter in CC.No.369 of 2016 before the Principal Junior Civil Judge-cum-Judicial First Class Magistrate, Husnabad, contending that both documents are necessary for disposal of the suit and presence of the original documents would assist the Court to come to a right decision.

7. Respondents 1 and 2 opposed the said application contending that petitioner is not concerned with the suit schedule

property or the document bearing No.2627/1992 dt.02.12.1992 and that the document does not belong to the petitioner. They also disputed the identity of the petitioner and stated that petitioner's true name is Kondam Ramana Reddy and not Kondam Ram Reddy.

8. By order dt.10.10.2018, the Court below dismissed the said I.A. on the ground that petitioner had only sought for calling of the sale deeds in question but not the report of the Forensic Expert. It also observed that respondents had disputed the identity of the petitioner itself and so petitioner should prove first that he is the same person in whose favour the said document dt.02.12.1992 was executed. It also opined that the two documents in question are registered documents and so the petitioner can obtain certified copies thereof.

9. Challenging the same, this Revision is filed.

10. Counsel for the petitioner contended that the reasoning of the Court below is perverse and unsustainable, and merely because the respondents have disputed the identity of the petitioner, the Court could not have dismissed the I.A. He also contended that the originals of both documents would be necessary to prove his case in the suit and filing of Certified Copies would not suffice. He also stated that the report of the Forensic Expert in the criminal case is not necessary.

11. Counsel for the respondents however supported the order passed by the Court below.

12. Admittedly, the suit is filed for cancellation of the document dt.22.03.2013 and for handing over of the original Sale Deed dt.02.12.1992 to the petitioner. Therefore, the presence of both the documents in original before the Court below is necessary, if the petitioner is to establish his case of impersonation by 2nd respondent and also to take over the original of the sale deed dt.02.12.1992.

13. Merely because the respondents are disputing the identity of the petitioner, the Court cannot dismiss the application because in the suit anyway the question, *whether petitioner is Kondam Ramana Reddy or Kondam Ram Reddy*, can be gone into. Therefore, the view of the Court below is perverse and cannot be sustained.

14. Accordingly, this Civil Revision Petition is allowed; order dt.10.10.2018 in I.A.No.173 of 2017 in O.S.No.72 of 2016 of the Additional Junior Civil Judge, Husnabad is set aside; and the said I.A., is allowed. No order as to costs.

15. Consequently, miscellaneous petitions pending if any, shall stand closed.

M.S. RAMACHANDRA RAO, J

28th June, 2019.

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