

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

CRP.No.7383 of 2018

O R D E R:

Heard counsel for petitioner.

2. This Revision is filed challenging the order dt.12.10.2018 of the I Senior Civil Judge, City Civil Court, Hyderabad in OS.SR.No.11570 of 2018 returning the plaint to the petitioners while insisting on petitioners producing Succession Certificate because in the suit, petitioners had sought a decree for mandatory injunction directing the respondent-Bank to deliver the contents of Safe Deposit Lockers No.330 and 446 to the petitioners as detailed in the panchanama conducted by the Bank on 23.12.2016.

3. In ***Branch Manager, State Bank of Hyderabad, Kesanakurru Branch, Kesanakurru v. Gadiraju Ram Bhaskara Viswanadha Raju***¹ it was held that gold articles pledged with bank are not securities and for returning those articles to a legatee, who discharges loan, Bank cannot insist on production of Succession Certificate.

4. The Court below however distinguished the said decision and observed that unlike in the said case, the articles in the present case lying in the locker were in the

¹ 1993(2) ALT 274

name of the parents of the petitioner and they are not pledged, and since the petitioners are claiming the said articles as successors of their parents by grant of mandatory injunction, the said decision has no application.

5. In my considered opinion, this view taken by the Court below is wholly erroneous because articles available in the locker of a Bank cannot be said to be a '*debt*' and only in respect of "*debts*", section 214 of the Indian Succession Act, 1925 requires a Succession Certificate to be produced. Therefore, I hold that the order passed by the Court below cannot be sustained.

6. Accordingly, this Civil Revision Petition is allowed; the order dt.12.10.2018 of the I Senior Civil Judge, City Civil Court, Hyderabad in OS.SR.No.11570 of 2018 is set aside; and the said Court is directed to register the plaint, if it is otherwise in order, number it and then take further steps in the matter in accordance with law. No order as to costs.

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

M.S. RAMACHANDRA RAO, J

26th April, 2019.

gra