

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

C.R.P.No.7543 of 2018

ORDER:

This Revision is filed under Article 227 of the Constitution of India challenging the order dt.06.12.2018 in I.A.No.1995 of 2018 in O.S.No.151 of 2012 of the XII Additional Chief Judge, City Civil Court, Secunderabad.

2. Petitioner is the plaintiff in the above suit. The said suit was filed for partition of the plaint schedule property into two shares and for allotment of one such share to the petitioner. 1st respondent is the 1st defendant in the said suit and he is the brother of the petitioner. Respondents 2 and 3 are the children of the 1st respondent.

3. It is the case of the petitioner that the plaint schedule property was purchased in the name of his mother under registered Sale Deed dt.11.11.1981 by his father, that he had contributed a sum of Rs.1,36,000/- for construction and development of the suit schedule property, and that he is residing in eastern portion of the said property and he is a co-sharer, while the 1st respondent and his family is residing in the western portion of the same property. He contended that a legal notice dt.20.07.2012 was received from respondents 2 and 3 alleging that the suit schedule property is their property, that they had acquired the same under a registered Gift Deed dt.19.01.1993 executed by his mother pursuant to a registered GPA executed by

her in favour of the 1st respondent; and that the alleged GPA and the Gift Deeds were both invented and created for the purpose of depriving the share of the petitioner and they have been fabricated. He also raised a specific contention that the signature of the mother of the petitioner was forged in both Gift Deed and GPA.

4. After issues were framed, trial commenced, and after the cross-examination of DW-1 was over, petitioner filed I.A.No.1995 of 2018 under Order XI Rule 14 of CPC to direct the Manager, Central Bank of India, Sithaphalmandi Branch, Secunderabad to produce the bank account opening form of A/c No.3281806777 stating that the said bank account belongs to the petitioner and he had signed the bank account opening form at the time of opening of the account, and also while making withdrawals. He contended that DW-1 in his cross-examination stated that Exs.A26 to A28 contained petitioner's signature but he did not in fact sign those documents and the signatures on those documents purporting to belong to him are in fact forgeries. He also contended that he worked in Printing & Stationery Department of South Central Railway, Secunderabad, that his employment number is T674 and the Court may also call for the documents from the petitioner's personal records from the said Department to know the truth about the disputed signatures.

5. Counter affidavit was filed by 2nd respondent opposing the same.

6. By order dt.06.12.2018 the Court below dismissed the said application stating that petitioner had merely stated in the I.A., that if the documents sought to be produced are summoned, the true facts will come out, but he did not state how the facts will come out i.e., whether by comparison under Section 73 of the Indian Evidence Act, 1872 or by sending the same to a Hand Writing Expert, and in the absence of these reasons, the purpose cannot be inferred.

7. Assailing the same, this Revision is filed.

8. Counsel for petitioner contended that the petitioner had indicated the purpose in I.A.No.1995 of 2018 itself that the documents sought to be summoned are required to determine whether his signatures on Exs.A26 to A-28 are forged or not and the Court below could not have rejected the same by giving the above reason.

9. Counsel for respondent however supported the order passed by the Court below.

10. When the petitioner had specifically indicated in the application I.A.No.1995 of 2018 that the signatures purporting to belong to him on Exs.A26 to A28 do not belong to him, and that his signatures were forged, and the documents sought to be summoned by him contain his actual specimen signature, the Court below could not have rejected the said application on the

ground that petitioner did not indicate how the true facts would come out. The reasoning of the Court below is clearly perverse and unsustainable.

11. Accordingly, this Civil Revision Petition is allowed; order dt.06.12.2018 in I.A.No.1995 of 2018 in O.S.No.151 of 2012 of the XII Additional Chief Judge, City Civil Court, Secunderabad, is set aside; and the said I.A., is allowed. No order as to costs.

12. Consequently, Miscellaneous petitions pending if any shall stand dismissed.

M.S. RAMACHANDRA RAO, J

28th January, 2019.

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