

HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

CIVIL REVISION PETITION No.7641 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.1994 of 2018 in O.S.No.151 of 2012 of the XII Additional Chief Judge, City Civil Court, Secunderabad.

2. The petitioner herein is plaintiff in the suit.
3. The said suit was filed by petitioner against respondents for partition of the suit schedule properties and for allotment of one such share to the petitioner by metes and bounds.
4. After the evidence of petitioner/plaintiff concluded, the respondents led evidence. D.W.1 was examined in chief and he was also cross-examined on 15-11-2018 and Exs.B-1 and B-2 were marked in his evidence. In his cross-examination, D.W.1 stated that Exs.A-22 and A-24 signatures in Ex.B-1 GPA belonged to D.W.1's grand father by name A.A.Jacob.
5. Petitioner, however, contended that the signatures Exs.A-22 and A-24 in Ex.B-1 did not belong to A.A.Jacob and they were forged. He contended that A.A.Jacob, who is the father of petitioner, had a bank account in Central Bank of India, Sithaphalmandi Branch, Secunderabad with Account No.19255, that he signed on Bank account opening form and withdrawal forms, and these being admitted

signatures of late A.A.Jacob, the Court should call for the same. He therefore filed I.A.No.1994 of 2018 for the above purpose.

6. In the affidavit filed in support of the said application, petitioner further stated that late A.A.Jacob worked in the Railways as Depot Store Keeper and retired from service on 31-10-1981; that post retirement, he got pension pursuant to Pension Payment Order No.S-267-B, which also contains his admitted signature; and so he asked the Court below to call for the said Pension Payment Order from the concerned Officials of South Central Railway along with Bank account opening form and withdrawal form containing specimen signatures of his father in the Central Bank of India relating to Account No.19255.

7. The respondents opposed the said application. They denied the allegation that signatures Exs.A-22 and A-24 on Ex.B-1 G.P.A. were forgeries. It was further contended that petitioner had admitted in the plaint that the GPA itself was cancelled after execution of gift deed in favour of respondent Nos.2 and 3 and there was no necessity to summon the said documents. It was also contended that the said documents did not relate to period of execution of GPA and there was no necessity to summon them at the final stage of the suit and the application is filed only to protract the proceedings.

8. The Court below dismissed the said application by order dt.06-12-2018 stating that the petitioner in the affidavit filed in support of the application had only contended that the true facts will

come out if the documents sought to be produced are summed, but no where stated as to how the facts will come out i.e. whether by comparison under Section 73 of the Indian Evidence Act or by sending the same to the Handwriting Expert and in the absence of reasons, purpose cannot be inferred. The Court below also stated that application was filed when the suit is coming for arguments without any specific purpose and no fruitful purpose would be served.

9. Assailing the same, this Revision is filed.

10. Learned counsel for petitioner contended that the reasons assigned by the Court below are perverse and it's order is unsustainable. He stated that the petitioner had specifically alleged in the affidavit filed in support of I.A.No.1994 of 2018 that the purpose of summoning the said documents was to show that the signatures Exs.A-22 and A-24 in Ex.B-1 G.P.A. purporting to be that of late A.A.Jacob are in fact forged and merely because the suit is coming up for arguments, the Court below could not have rejected the same.

11. Though learned counsel for respondents sought to support the order passed by the Court below, I am of the opinion that the purpose for which the documents were summoned is specifically set out in the affidavit filed in support of I.A.No.1994 of 2018 and the Court below could not have said that petitioner did not indicate purpose for which the documents are sought to be summoned.

12. Since the entire case of respondent is dependent on the G.P.A. dt.24-12-1992, pursuant to which the gift deed dt.19-01-1993 was

allegedly executed, even if there was some delay in filing the said application, on the said pretext the application could not have been rejected and the petitioner ought to have been given an opportunity to establish his contention that the signatures thereon did not belong to AA Jacob.

13. Accordingly, the Civil Revision Petition is allowed; the order dt.06-12-2018 in I.A.No.1994 of 2018 in O.S.No.151 of 2012 is set aside; and the said I.A. is allowed. No costs.

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

JUSTICE M.S.RAMACHANDRA RAO

Date: 13-02-2019

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