

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

CIVIL REVISION PETITION No.1821 of 2019

ORDER:

This Civil Revision Petition, under Article 227 of the Constitution of India, is filed by the petitioner/defendant, challenging the interlocutory order dated 05.07.2019 passed in O.S.No.19 of 2006 by the Senior Civil Judge, Sathupally, wherein the Court below received the document dated 22.04.1980 as a Partition List/Memorandum of past partition and held that it does not require registration and stamp duty and can be received in evidence.

2. Heard the learned counsel for both the sides and perused the record.

3. Learned counsel for the revision petitioner/defendant would contend that the impugned order dated 05.07.2019 is erroneous and against the law relating to registration and stamp duty. There was no earlier partition, as determined by the Court below. Therefore, the disputed document, dated 22.04.1980 cannot be received in evidence and ultimately prayed to set aside the order under challenge and allow the Civil Revision Petition.

4. On the other hand, learned counsel for the respondents/ plaintiffs supported the impugned order and contended that there is no infirmity in the order under challenge and ultimately prayed to dismiss the Civil Revision Petition.

5. In view of the submissions made by both sides, the point for determination is:

“Whether the interlocutory order dated 05.07.2019 passed in O.S.No.19 of 2006 by the Senior Civil Judge, Sathupally, is liable to be set aside.”

6. A perusal of the impugned order shows that the Court below, while dealing with the subject matter of the disputed document, dated 22.04.1980, extracted its contents which are in ‘Telugu’ and also examined the contentions raised by both the sides. The Court below ultimately held that since the disputed document dated 22.04.1980 demonstrates only past partition, it does not require registration and stamp duty. The Court below relied upon the decision reported in *Euravaram Leenakara Reddy Vs. E.Raghunatha Reddy*¹ wherein, it was held that once a document is a memorandum of past transaction and when the partition of the properties was not effected, such document is not liable for stamp duty and registration. On the other hand, the revision petitioner/defendant, to substantiate his contention, relied upon the decision reported in *Khaja Habeebuddin vs. Md.Ibrahim*². The said decision is distinguishable from the facts and circumstances of the case on hand. Therefore, the Court below is justified in passing the impugned order holding that the document dated 22.04.1980 is a partition list/memorandum of past partition and it does not

¹ 1997(2)AWR 1988 = Laws(APH) 1997 (7) 95

² 2004(3) ALT 15

require registration and stamp duty. There is no legal infirmity in the order under challenge. The civil revision petition is devoid of merits and is liable to be dismissed.

7. Accordingly, the Civil Revision Petition is dismissed. There shall be no order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

Date: 22nd January, 2020.
Vvr

Dr. SHAMEEM AKTHER, J

