

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

Civil Revision Petition No.2267 OF 2019

Between:

K.Nalini Devi and another

... Petitioners

Vs.

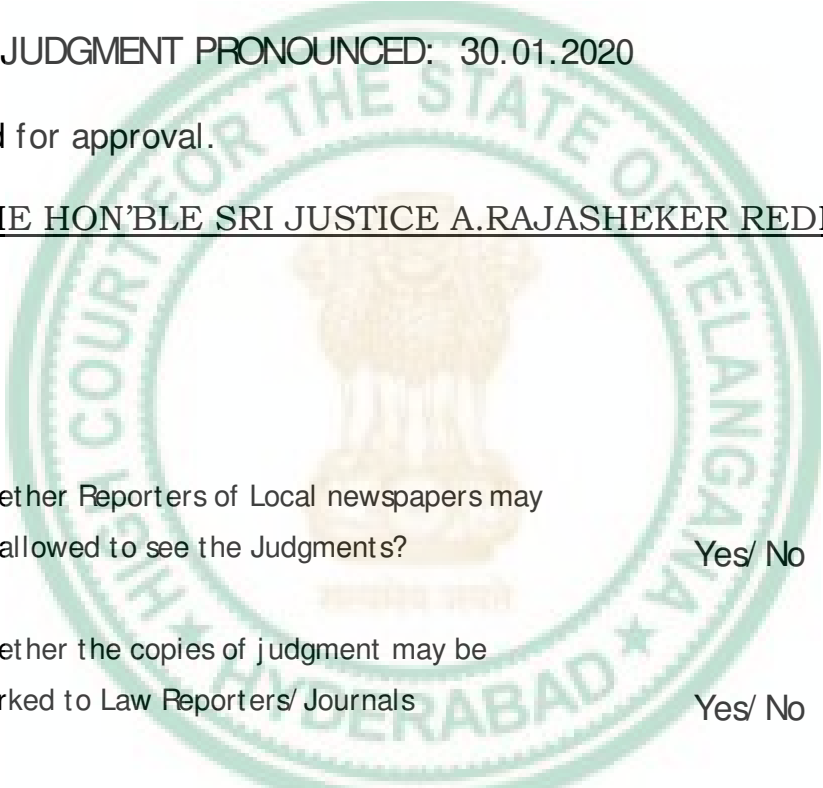
K.Haritha Reddy and others.

...Respondents

DATE OF JUDGMENT PRONOUNCED: 30.01.2020

Submitted for approval.

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

- 
- 1 Whether Reporters of Local newspapers may be allowed to see the Judgments? Yes/ No
 - 2 Whether the copies of judgment may be marked to Law Reporters/ Journals Yes/ No
 - 3 Whether Their Ladyship/ Lordship wish to see the fair copy of the Judgment? Yes/ No

* THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

+ C.R.P. No.2267 of 2019

% Dated 30.01.2020

K.Nalini Devi and another

... Petitioners

Vs.

\$ K. Haritha Reddy and others.

..Respondents

! Counsel for the Petitioner: Sri A.Venkatachary

^ Counsel for the Respondent No.1: Sri Gaddam Srinivas.

> HEAD NOTE:

? Cases referred

¹ 2015 (1) CTC 359

² AIR 2003 SC 1905

³ 2001 (2) ALD 525

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY**CIVIL REVISION PETITION No.2267 of 2019****ORDER:**

This Civil Revision Petition is filed against docket order dated 11.09.2019 wherein and whereby the objection raised by the 1st respondent/plaintiff with regard to admissibility of documents for evidence captioned as 'No objection-cum-Declaration' was upheld by the Court below on the ground that the same is not stamped and registered.

Heard Sri A.Venkatachary, learned counsel for the petitioners and Sri Gaddam Srinivas, learned counsel for the 1st respondent/plaintiff.

Learned counsel for the petitioner submits that there are no definite properties mentioned in the 'No objection-cum-declaration' which is sought to be marked in evidence and it is incapable of valuation for the purpose of stamp duty and registration, as such, the same need not be stamped and registered. He also submits that the same can be marked for collateral purpose. In support of his contention, he relied on the judgments reported in **T.Chakrapani v. K.Adimoolam¹** and **Bondar Singh v. Nihal Singh²**.

On the other hand, learned counsel for the 1st respondent/plaintiff by relying on the judgment reported in the case of **Abdul Majeed v. Yadram Suresh³** submits that when once

¹ 2015 (1) CTC 359

² AIR 2003 SC 1905

³ 2001 (2) ALD 525

there is a relinquishment by document involving immovable properties, the same requires stamp and registration. He also submits that the subject properties are joint family properties of the petitioners and the respondents. When it is the case of the petitioners that the respondents 2 & 3 have relinquished their share in the joint family property, the same requires stamp duty and registration, as such, the trial Court rightly upheld the objection raised by the 1st respondent/plaintiff.

The document sought to be marked is titled as 'No objection-cum-Declaration, reads as follows:

"NO OBJECTION-CUM-DECLARATION:

This Deed of No Objection Cum Declaration is made and executed on this the 21st day of JULY, 2008, at Secunderabad, by and between:

1. Smt. K.SRIDEVI REDDY, D/o.Sri K.DHAMODHAR REDDY, aged about 43 years, Occupation: Govt. Employee, R/o.H.No.3-6-213/304, Street No.16, Himayathnagar, Hyderabad.
2. Smt. K.HARITHA REDDY also known as KAVITHA REDDY, D/o.Sri DHAMODHAR REDDY, aged about 28 years, Occupation: House wife, R/o.H.No.12-13-98, Flat No.304, Satguru Apartments, Street No.3, Tarnaka, Secunderabad.
3. Smt. K.KALPANA REDDY, D/o.Sri K.DHAMODHAR REDDY, aged about 30 years, Occupation: House-wife, R/o.Flat No.05, Pragati Apartments, H.No.2-2-18/15/3, D.D.Colony, Hyderabad.

Hereinafter called the PARTIES OF THE FIRST PART;

AND

1. Sri K.DHAMODHAR REDDY, S/o.Late K.RANGA REDDY,aged about 70 years, Occupation: Retd. Service.
 2. Sri K.SRIKANTH REDDY, S/o.Sri K.DHAMODHAR REDDY, aged about 39 years, Occupation: Service.
- Both are residing at

Hereinafter called the SECOND PARTY;

WHEREAS, the Second Party herein are the sole and absolute owners House constructed on Open Plot bearing B.No.56, (GLRS No.163) Rev.No.606, admeasuring 300 sq.yds, situated at Gummadi

Venkat Reddy Colony, Alwal Village, Secunderabad Cantonment, and other Moveable and immovable properties.

WHEREAS the Party No.1 of the Second Part have already settled the properties and performed marriages to the First Parties and they have settled and enjoyed by their families.

WHEREAS the First Parties herein are the Natural Daughters of Party No.1 of Second Part and Natural Sister of Party No.2 of Second Part.

WHEREAS the Second Party have gifted the Three Portions in Plot bearing B.No.56, (GLRS No.163) Rev.No.606, situated at Gummadi Venkat Reddy Colony, Alwal Village, Secunderabad Cantonment, by virtue of 3 Registered Gift Settlement Deeds, vide Registered Document Nos.101041011/08 of 2008, dated 21.07.08, in the office of the Sub-Registrar, Bowenpally, Secunderabad.

WHEREAS the Parties of the First Part hereby declare that they have no right to claim, charge or interest of the Second Parties moveable and immovable properties or their mother of Smt. K.Nalini Devi moveable and immovable properties or any ancestral moveable and immovable properties.

WHEREAS the Parties of the First Part hereby declare that the Parties of the First Part and their family members have no right, claim or interest on the above said property.

We hereby declare that We have No Objection to the above said property. We further declare that in future also we will not create any unwanted situations, claims, charges etc., to the Second Party.

IN WITNESS WHEREOF the Parties above named set their respective signatures unto this DEED OF NO OBJECTION on the day, month and year first above written.

WITNESSES:

1.

1. Sd/-

2. Sd/-

3. Sd/-

PARTIES OF THE FIRST
PART.

1. Sd/-

2. Sd/-

2. Sd/-

SECOND PARTY

Sd/-"

In this case, it is to be seen that it is not the case of the petitioners that the respondents have no right in the subject property and that is the reason they have obtained the document in question for relinquishment of the shares of the respondents in the subject property, which goes to show that there is

relinquishment of their rights in the subject immovable property. When once document is executed relinquishing interest in immovable properties, the same requires payment of stamp duty and registration.

As far as valuation of the subject property is concerned, according to the petitioners, the suit schedule property is the joint family property, as such, there should not be any difficulty for valuation of the documents. That apart, the suit is filed for partition of the properties.

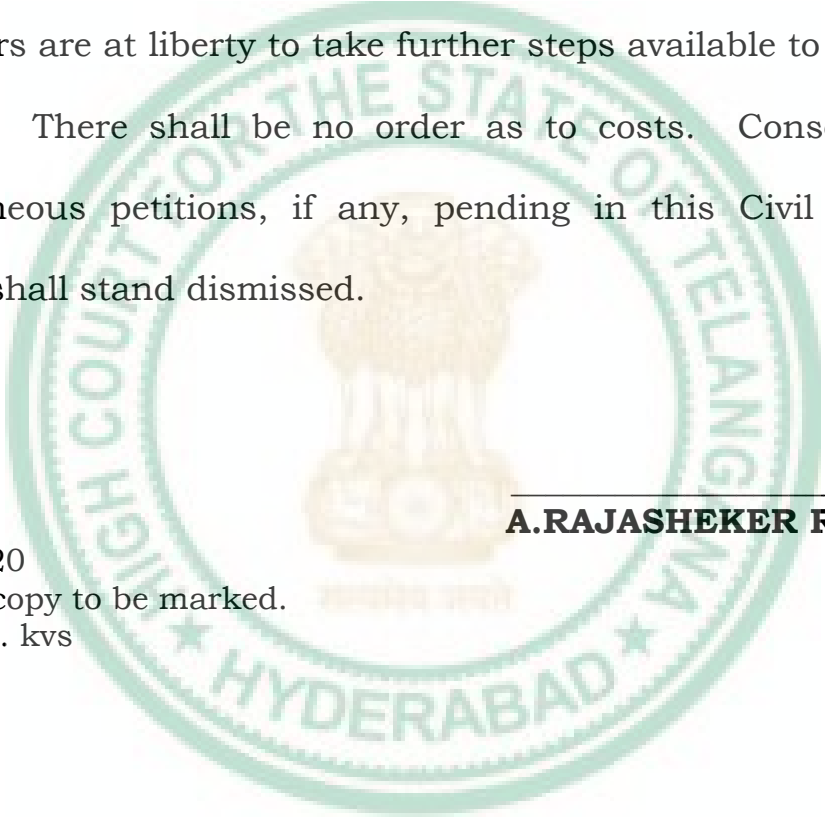
Learned counsel for the petitioner is unable to state as to what is the collateral purpose for which the document in question is to be marked. It is his specific contention that since the respondents have relinquished their shares in the suit schedule property, the suit for partition is not maintainable, as such, the judgments cited by the learned counsel for the petitioners, have no application to the facts of the case. This Court has considered the similar issue in **Abdul Majeed v. Yadram Suresh (supra)** and held as follows:

“4.....In view of the same, for the purpose of Section 17 of the Registration Act, a document which purports to create, declare, assign, limit or extinguish any right title or interest requires registration even though the executant had no title. Therefore, the said document needs to be registered and properly stamped. It cannot be said that it is only an assertion or reiteration or declaration of a fact, which does not in any way affect any right title or interest. However, once a document is sought to be executed with such reiteration or even a declaration, it certainly touches upon creation, declaration and assignment limiting or extinguishing whatever right title or interest whether valid or invalid. In view of the very terms as such, it can in no circumstances be said that the said document is an agreement falling under Articles 5 and 6 of the Stamp Act. I am also fortified in this view of mine by the decision of a Division Bench of the Lahore High Court in *Abdul Rahman v. Gurdit Singh*, AIR 1934 Lahore 604, wherein while considering the provisions of Section 17 and 49 of the Registration Act, it was held that a document

which purports to declare that the executants held no title in the house and have relinquished their action, requires registration and if unregistered is inadmissible in evidence.”

In view of above facts and circumstances, I do not see any infirmity or illegality in the order passed by the trial Court by exercising jurisdiction under Article 227 of the Constitution of India. However, learned counsel for the petitioners seeks liberty to take further steps in the matter, as per law.

Accordingly, Civil Revision Petition is dismissed. However, petitioners are at liberty to take further steps available to them, as per law. There shall be no order as to costs. Consequently, miscellaneous petitions, if any, pending in this Civil Revision Petition shall stand dismissed.



A.RAJASHEKER REDDY,J

30.01.2020

Note: LR copy to be marked.

B/o. kvs

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

CIVIL REVISION PETITION No.2267 of 2019



Date: 30.01.2020

kvs