

IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD

WEDNESDAY, THE THIRTY FIRST DAY OF DECEMBER
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SRI JUSTICE NARSING RAO NANDIKONDA

CIVIL REVISION PETITION NO: 1972 OF 2019

Petition under Article 227 of the Constitution of India aggrieved by the Order dated 17-06-2019 passed in O.S.No 18 of 2010 passed by the Court of V Additional District Judge (II FTC), Warangal at Jangaon.

Between:

1. Smt. Byroju Padma W/o Late Bapiraju, age 41 years, Occ House Hold, R/o H-No 2-11-26, Ganesh wada, Jangaon Town and Mandal, Warangal District.
2. Byroju Santhosh Kumar S/o Late Bapiraju, age 14 years, Occ House Hold, R/o H-No 2-11-26, Ganesh wada, Jangaon Town and Mandal, Warangal District (Being Monor is Rep. By his natural Mother Petitioner No.1)

...PETITIONERS/DEFENDANT No. 2 & 4

AND

1. Pagidemuthal Uma,, D/o Late Jagannadam, W/o Bheeshma Chary, Aged 41 years, Occ House Hold, R/o H-No 2-11-26, Ganesh wada, Jangaon Town and Mandal, Warangal District.
2. Grandhala Jyothi D/o Late Jagannadam, W/o Ramalingam, Aged 43 years, Occ House Hold, R/o H-No 2-11-26, Ganesh wada, Jangaon Town and Mandal, Warangal District.

...RESPONDENTS/PLAINTIFFS

3. Byroju Bhadramma D/o Late Jagannadam, W/o Ramalingam, Aged 60 years, Occ House Hold, R/o H-No 10-36, Narmetta Village and Mandal, Warangal District.
4. Byroju Rajkumar S/o Late Bapiraju, age 19 years, Occ House Hold, R/o H-No 2-11-26, Ganesh wada, Jangaon Town and Mandal, Warangal District. (Respondent No.4 is a Proforma Party not necessary to this (CRP)

...RESPONDENT/DEFENDANT Nos. 1 and 3

IA NO: 1 OF 2019

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to stay all further proceedings in O.S.No 18 of 2010 pending on the file of the Court of the V Additional District Judge (II FTC), Warangal at Jangaoan, pending disposal of the Civil Revision Petition.

Counsel for the Petitioners: Sri R. K. Chitta

Counsel for the Respondents: Sri D. V. Chalapathi Rao

The Court made the following: ORDER

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

THE HON'BLE SRI JUSTICE NARSING RAO NANDIKONDA

CIVIL REVISION PETITION No.1972 OF 2019

THE 31st DAY OF DECEMBER 2025

Between:

Smt. Byroju Padma and Others.

...Petitioners

AND

Pagidemuthal Uma and Others.

...Respondents

ORDER:

This Civil Revision Petition is filed under Article 227 of the Constitution of India against the docket order dated 17.06.2019 passed in O.S.No.18 of 2010 by the V Additional District Judge (IIFTC), Warangal at Jangaon, which Court is now functioning as Principal District Judge, Jangaon.

2. The brief facts of the case are that the petitioners herein are defendant Nos.2 and 4 in the suit filed by the respondents/plaintiffs seeking partition and separate possession of the suit schedule house and agricultural properties into four shares and to allot 1/4th share to each plaintiff and to pass a preliminary and final decree by

appointing an Advocate Commissioner to effect partition by metes and bounds.

3. Pending the said suit, the matter was posted for chief examination of PW-1 and marking of documents on 17.06.2019, the plaintiffs sought to mark a document dated 13.04.1990, which is an unregistered document styled as a partition/settlement copy. At that stage, the learned counsel for the defendants raised objection to marking of the said document and submitted memo along with citations contending that the said document is an unregistered partition deed-cum-settlement deed, which is compulsorily registrable and cannot be received in evidence even for collateral purpose and that payment of stamp duty would not cure the defect under the Registration Act.

4. The learned Judge, after hearing both the learned counsel, passed the following order:

"The document dated 13.04.1990 clearly shows that it was already partitioned in between Jagannadham and Sherkaraiah and as per their possession, the document/resolution passed by the caste elders and it may not be compulsory registrable. It has been collected stamp duty according with law. The objection raised by the counsel for the defendants is over ruled. The document is impounded, hence it is admissible for evidence and it can be decided as adjudication."

5. Being aggrieved by the said docket order dated 17.06.2019, the present Civil Revision Petition is filed on the ground that the learned trial Court exercised jurisdiction in a manner unknown to law and failed to exercise the jurisdiction vested in it and failed to determine the jurisdictional fact as required under law and thereby committed a manifest jurisdictional error.

6. It is further averred that the learned trial Court did not consider the settled principles of law that an unregistered document which is compulsorily registrable, cannot be received in evidence, even for collateral purpose. It is further averred that the mere payment of stamp duty and penalty under Sections 40 and 42 of the Indian Stamp Act, 1899, would not cure the defect under Sections 17 and 49 of the Registration Act, 1908. It is further averred that the learned Judge failed to understand the ambit, scope and purport of Section 35 of the Indian Stamp Act and Sections 17 and 49 of the Registration Act, which operate in different fields. It is further averred that the expression "collateral purpose" must be examined in each case and the impugned order *ex-facie* discloses non-application of mind and abdication of judicial function and is an unreasoned order and therefore is *non-est* in law. It is further averred that the

impugned order is unreasonable, unjust, unfair and irrational and *per se* illegal and passed without jurisdiction and therefore, liable to be set aside.

7. Heard **Sri R.K.Chitta**, learned counsel for the revision petitioners and **Sri D.V.Chalapathi Rao**, learned counsel for the respondents.

8. Learned counsel for the revision petitioners contended that the document dated 13.04.1990 is an unregistered partition deed wherein shares were allotted and rights were created and therefore it requires compulsory registration. He further contended that even though stamp duty and penalty were collected, the same would not make the document admissible in evidence and that it cannot be looked into even for collateral purpose.

9. He relied upon the judgment in ***K.B.Saha and Sons Private Limited vs Development Consultant Limited***¹ and ***Arshnoor Singh vs Harpal Kaur and Others***² and he also argued and contended that the learned Judge did not consider the same as the

¹ (2008) 8 SCC 564

² (2020) 14 SCC 436

said document, which being an unregistered document, cannot be looked into for any purpose.

10. *Per contra*, learned counsel for the respondents contended that the document reflects a past partition and is intended to be marked only to show ancestral nature of property and not to claim partition on its basis and therefore, it can be looked into for collateral purpose and he relied upon the judgment cited in *Guntupalli Venkata Ramaiah s/o Pullaiah and Ors V/s Guntupalli Purnachandra Rao s/o Venkata Ramaiah*³ in Para 10 and 11 extracted as under:

"Para 10: In the light of the above tests applicable to the documents in question, the two decisions relied on by Sri N. Sriram Murthy, learned Counsel for the respondent in *G. Sarangapani v. H. Kanakaiah (Died) & Ors. (died)*, 1995 (2) ALT 617 and *Ghulam Jeelani v. Ghulam Sofi*, 1996 (3) ALD 909 : 1996 (3) ALT 643, have to be understood as referring to inadmissibility of compulsorily registerable documents, obviously with reference to their inadmissibility for the purpose of proving the transaction itself and cannot be considered to be excluding the admissibility of the documents for any collateral purpose, which limited admissibility is evident from the express language of Section 49 of the Registration Act. While the two documents in question can be looked into for any purpose only on payment of required stamp duty and penalty in view of the absolute prohibition under Section 35 of Stamp Act, they can be looked into for a collateral purpose in spite of non-registration of the documents, if the stamp duty and penalty is paid.

Para 11: Therefore, the order in IA No. 701 of 2006 in OS No. 1598 of 2005 on the file of the II Additional Junior Civil Judge, Guntur, dated 5.1.2007 is set aside and it is declared that the documents dated 5.3.1993 in the nature of partition deeds are inadmissible in evidence for any purpose without payment of the requisite stamp duty and penalty and will become admissible in

evidence for a collateral purpose on payment of such stamp duty and penalty though unregistered and it is for the trial Court to determine on merits in accordance with law whether the said documents are being tendered into evidence for any collateral purpose or otherwise at the stage of such tender after payment of required stamp duty and penalty. The civil revision petition is ordered accordingly without costs."

and the judgment cited in *Moduraboina Deepika V/s Kuna Sujatha Devi*⁴ at Para 4 and 12

"12. In YELLUPU UMA MAHESHWARI, the very issue was considered by the Supreme Court. In the said case of the two relevant documents, first one was a deed of memorandum evidencing earlier partition affected between the parties and second one was an agreement. Supreme Court held as under:

"17. It is well settled that the nomenclature given to the document is not decisive factor but the nature and substance of the transaction has to be determined with reference to the terms of the documents and that the admissibility of a document is entirely dependent upon the recitals contained in that document but not on the basis of the pleadings set up by the party who seeks to introduce the document in question. A thorough reading of both Exhibits B-21 and B-22 makes it very clear that there is relinquishment of right in respect of immovable property through a document which is compulsorily registerable document and if the same is not registered, becomes an inadmissible document as envisaged Under Section 49 of the Registration Act. Hence, Exhibits B-21 and B-22 are the documents which squarely fall within the ambit of Section 17(i)(b) of the Registration Act and hence are compulsorily registerable documents and the same are inadmissible in evidence for the purpose of proving the factum of partition between the parties. We are of the considered opinion that Exhibits B 21 and B 22 are not admissible in evidence for the purpose of proving primary purpose of partition."

18. Then the next question that falls for consideration is whether these can be used for any collateral purpose, and the larger Bench of Andhra Pradesh High Court in *Chinnappa Reddy Gari Muthyala Reddy v. Chinnappa*

Reddy Gari Vankat Reddy MANU/AP/0141/1969 : AIR 1969 A.P. (242) has held that the whole process of partition contemplates three phases i.e. severancy of status, division of joint property by metes and bounds and nature of possession of various shares, and that in a suit for partition an unregistered document can be relied upon for a collateral purpose i.e. severancy of title and nature of possession of various shares but not for the primary purpose i.e. division of joint properties by metes and bounds, further holding that an unstamped instrument is not admissible in evidence even for a collateral purpose until the same is impounded, and hence if the Appellants/Defendants want to mark these documents for collateral purpose it is open to them to pay the stamp duty together with penalty and get the document impounded, whereupon the Trial Court is at liberty to mark Exhibits B-21 and B-22 for collateral purpose subject to proof and relevance."

11. Wherein he argued and contended that the said document can be looked into for the collateral purpose and in the said judgment the Bench of this Court, having relied upon the judgment of the Hon'ble Full Bench (Five Judges) of this Court in *Chinnappareddigari Pedda Muthyalareddy vs. Chinnappareddigari Venkatreddy and others*⁵, wherein it was concluded in the said judgment that the said document which is in the nature of a partition deed cannot be looked into unless it is registered, but it can be looked into for the purpose of establishing a severance in status, though that severance ultimately affects the nature of the possession held by the members of the separated family; and it is further held in the said judgment that where a document is in the nature of a partition deed, which is

inadmissible in evidence for any purpose without payment of requisite stamp duty and penalty, it will become admissible in evidence for collateral purpose on payment of stamp duty and penalty, though it is an unregistered document. Further, he also relied upon the judgment of the Hon'ble Supreme Court in *Korukonda Chalapathi Rao & Another vs. Korukonda Annapurna Sampath Kumar*⁶, wherein the question arose with respect to a document styled as Khararunama, which was claimed to be a record of alleged past transactions relating to partition. The Hon'ble Supreme Court considered whether such Khararunama could be received in evidence, holding that where the document is only a record or memorandum of past transactions and does not by itself create, declare, assign, limit or extinguish any right in immovable property, it would not attract Section 17(1)(b) of the Registration Act, and consequently would not be inadmissible under Section 49 of the Registration Act, though it cannot be used as evidence of the transaction itself, but only for permissible collateral purposes such as explaining the conduct of the parties and the nature of possession.

12. Having considered the rival contentions and on a perusal of the document dated 13.04.1990, it is seen that the said document contains division of house property, agricultural lands, allotment of specific shares, distribution of gold, silver, cash, agricultural implements and undertakings to abide by the division and also penal consequences. The document does not merely record a past partition. On the contrary, it itself effects and declares partition by metes and bounds. Therefore, the document squarely falls under Section 17(1)(b) of the Registration Act and is compulsorily registrable. It is well settled that payment of stamp duty and penalty cures only the defect under the Stamp Act and does not cure the defect of non-registration under the Registration Act. It is also well settled that collateral purpose must be independent of creation or declaration of rights in immovable property. If the collateral purpose itself involves proving title, partition or nature of ownership, the document cannot be looked into which is fortified by the Judgment of Hon'ble Supreme Court in Para 34 extracted as under:

"Para 34: From the principles laid down in the various decisions of this Court and the High Courts, as referred to hereinabove, it is evident that:

1. A document required to be registered, if unregistered is not admissible into evidence under Section 49 of the Registration Act.

2. Such unregistered document can however be used as an evidence of collateral purpose as provided in the proviso to Section 49 of the Registration Act.

3. A collateral transaction must be independent of, or divisible from, the transaction to effect which the law required registration.

4. A collateral transaction must be a transaction not itself required to be effected by a registered document, that is, a transaction creating, etc. any right, title or interest in immovable property of the value of one hundred rupees and upwards.

5. If a document is inadmissible in evidence for want of registration, none of its terms can be admitted in evidence and that to use a document for the purpose of proving an important clause would not be using it as a collateral purpose."

In the present case, the respondents seek to rely upon the document to establish ancestral nature of property, prior partition and allotment of shares, which directly affect rights in immovable property. The learned trial Court failed to determine the jurisdictional fact and mechanically admitted the document only on the ground that stamp duty was collected.

13. This Court opines that the learned Judge has committed error apparently on the face of the record by admitting the said document into evidence, on the ground of taking it for the collateral purpose, which is without any substance and the same deserves to be set aside.

13. Accordingly, this Civil Revision Petition is allowed by setting aside the docket order dated 17.06.2019 passed in O.S.No.18 of

2010 by the Vth-Additional District Judge (IIFTC), Warangal at Jangaon, which Court is now functioning as Principal District Judge, Jangaon.

Miscellaneous Petitions, if any, pending in this Writ Petition, shall stand closed. There shall be no order as to costs.

SD/- A. SREENIVASA REDDY
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

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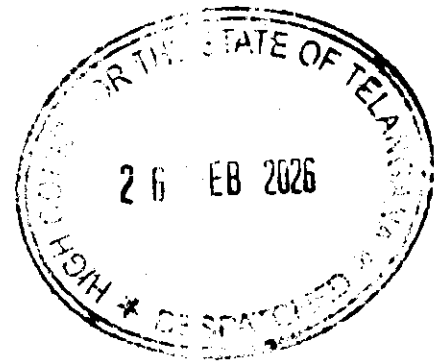
1. The V Additional District Judge (II FTC), Warangal at Jangaoan.
2. One CC to Sri R. K. Chitta, Advocate [OPUC]
3. One CC to Sri D. V. Chalapathi Rao, Advocate [OPUC]
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HIGH COURT

DATED: 31/12/2025



ORDER

CRP.No.1972 of 2019

ALLOWING THE CRP

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03/02/26
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