



HIGH COURT OF ANDHRA PRADESH
MONDAY ,THE TWENTY FOURTH DAY OF JUNE
TWO THOUSAND AND NINETEEN

PRESENT

THE HONOURABLE SMT JUSTICE T. RAJANI
CIVIL REVISION PETITION NO: 770 OF 2018

Between:

1. GOMUGUNTLA LEELA KRISHNA MURTHY S/o Subba Rao, Hindu,
Aged about 50 years,
Occ- Business, R/o Kattubadivaripalem Village,
Chilakaluripeta Mandal, Guntur, Andhra Pradesh.

...PETITIONER(S)

AND:

1. KANCHERLA KOTESWARAMMA AND ANOTHER Represented by her
Special Power of Attorney, Kancherla Srinivasa Rao, S/o Krishna
Murthy, Hindu, Aged about 36 years, LIC Agent, R/o D.No.20-5-31,
Gandala Bazar, Narasaraopet Town, Guntur District, Andhra Pradesh.
2. Kancherla Srinivasa Rao, S/o Krishna Murthy,
Hindu, Aged about 36 years,
LIC Agent, Rio D.No.20-5-31,
Gandala Bazar, Narasaraopet Town,
Guntur District, Andhra Pradesh.

...RESPONDENTS

Counsel for the Petitioner(s): GHANTA SRIDHAR

Counsel for the Respondents: T V SRI DEVI

The Court made the following: ORDER



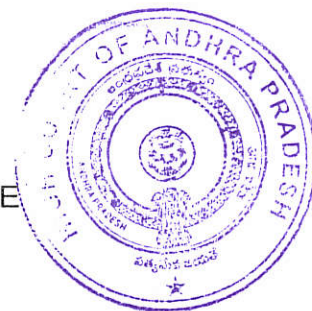
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CIVIL REVISION PETITION NO: 770 OF 2018



Petition under Article 227 of the Constitution of India, filed against the order dated 04/01/2018 passed in I.A. No.758 of 2017 in O.S.No. 34 of 2011 on the file of the Court of the XIII Additional District Judge, Narasaraopet.

Between:

Gomuguntla Leela Krishna Murthy, S/o Subba Rao, Hindu, Aged about 50 years, Occ: Business, R/o Kattubadivaripalem Village, Chilakaluripeta Mandal, Guntur, Andhra Pradesh.

...Petitioner/Petitioner/Plaintiff

AND

1. Kancherla Koteswaramma Represented by her Special Power of Attorney, Kancherla Srinivasa Rao, S/o Krishna Murthy, Hindu, Aged about 36 years, LIC Agent, R/o D.No.20-5-31, Gandala Bazar, Narasaraopet Town, Guntur District, Andhra Pradesh.
2. Kancherla Srinivasa Rao, S/o Krishna Murthy, Hindu, Aged about 36 years, LIC Agent, R/o. D.No.20-5-31, Gandala Bazar, Narasaraopet Town, Guntur District, Andhra Pradesh.

...Respondents/Respondents

IA NO: 1 OF 2018

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. 34 of 2011 pending on the file of the XIII Additional District Judge, Narasaraopet.

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 extend the Interim orders dated 23/02/2018 in IA No.1 of 2018 in CRP No.770 of 2018 until further orders.



IA NO: 2 OF 2018

Between:

1. Kancherla Koteswaramma Represented by her Special Power of Attorney, Kancherla Srinivasa Rao, S/o Krishna Murthy, Hindu, Aged about 36 years, LIC Agent, R/o D.No.20-5-31, Gandala Bazar, Narasaraopet Town, Guntur District, Andhra Pradesh.
2. Kancherla Srinivasa Rao, S/o Krishna Murthy, Hindu, Aged about 36 years, LIC Agent, R/o. D.No.20-5-31, Gandala Bazar, Narasaraopet Town, Guntur District, Andhra Pradesh.

...Petitioners/Respondents

AND

Gomuguntla Leela Krishna Murthy, S/o Subba Rao, Hindu, Aged about 50 years, Occ: Business, R/o Kattubadivaripalem Village, Chilakaluripeta Mandal, Guntur, Andhra Pradesh.

...Respondent/Petitioner

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 vacate the interim stay order dated 23/02/2018 in I.A.No.1 of 2018 in C.R.P No. 770 of 2018.

Counsel for the Petitioner: Sri Ghanta Sridhar

Counsel for the Respondents: Ms. T.V. Sri Devi

The Court made the following: ORDER

**SMT JUSTICE T. RAJANI****CIVIL REVISION PETITION No.770 of 2018****ORDER:**

This revision is preferred against the order, dated 04.01.2018, passed in IA No.758 of 2017 in O.S.No.34 of 2011, by virtue of which the court dismissed the petition, which was filed under Section 49 of the Registration Act r/w 151 CPC seeking to admit the draft sale deed, dated 09.09.2009, and the agreement of sale, dated 20.08.2009, in evidence as per the proviso to Section 49 of the Registration Act.

2. Heard the counsel for the petitioner as well as the counsel for the respondents.

3. A perusal of the impugned order would show that the court considered that earlier there was a docket order passed by the court in O.S.No.8 of 2010, which was clubbed with O.S.No.34 of 2011 refusing to mark the same document. Against the said docket order, the petitioner therein preferred revision and the High Court confirmed the order. A perusal of the docket order shows that no reasons were absolutely mentioned.

4. Be that as it may, the counsel now submits that the document at present is sought to be marked in O.S.No.34 of 2011 and not in O.S.No.8 of 2011 in which refusal to admit the document was recorded. He also draws the attention of this court



to proviso to Section 49 of the Registration Act, wherein an unregistered document effecting immovable property and required by this Act or the Transfer of Property Act, to be registered may be received as evidence of a contract in a suit for specific performance under Chapter II of the Specific Relief Act or as evidence of any collateral transaction not required to be effected by registered instrument.

5. The earlier petition was filed in O.S.No.8 of 2010, while this petition is filed in O.S.No.34 of 2011, which is a suit for specific performance. As already observed, the docket order in O.S.No.8 of 2010 is not a reasoned order, which does not even reflect the objections raised by other side. However, O.S.No.8 of 2010 is filed for recovery of possession and O.S.No.34 of 2011 is filed for specific performance, in which the unregistered agreement of sale becomes relevant and admissible. Though the suits are clubbed, the aspect of relevancy cannot be overlooked. In fact, the lower court ought to have marked the document in O.S.No.8 of 2010 itself as the document is admissible in O.S.No.34 of 2011, which is clubbed with O.S.No.8 of 2010 without confining to the consideration of relevancy in O.S.No.8 of 2010. The docket order in O.S.No.8 of 2010 shall not, in the above circumstances, operate as a bar to allow marking of the document in O.S.No.34 of 2011.

5. Hence, in view of the above discussion and going by the purport of the above provision, the permission to get the document



marked cannot be refused. The impugned order is set aside and the agreement of sale, dated 20.08.2009, would be marked subject to proof and relevancy by considering the objections, if any, that may be taken by the counsel for the respondents. However, the draft sale deed, dated 09.09.2009, being an inadmissible document, cannot be marked.

6. With the above observations, the Civil Revision Petition is partly allowed.

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

**SD/- K. JAGAN MOHAN
ASSISTANT REGISTRAR**

//TRUE COPY//

[Signature]
SECTION OFFICER

**One Fair Copy to the Hon'ble Smt. Justice T. Rajani
(For Her Lorship's kind perusal)**

To

1. The XIII Additional District Judge, Narasaraopet, Guntur District
2. One CC to Sri Ghanta Sridhar, Advocate [OPUC]
3. One CC to Smt. T.V. Sri Devi, Advocate [OPUC]
4. 9 LR Copies
5. The Under Secretary, Union of India, Ministry of Law, Justice and Company Affairs, New Delhi.
6. The Secretary, Andhra Pradesh Advocates Association, High Court Buildings at Amaravathi.
7. Two CD Copies.

MSR

[Signature]



HIGH COURT

DATED:24/06/2019

18/7/2019
OC
Rs. 7=50

ORDER

CRP.No.770 of 2018

(5)

PARTLY ALLOWING THE
CIVIL REVISION PETITION

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