
(2013) 12 KAR CK 0353

In the Karnataka High Court

Case No : Writ Petition No. 82358 of 2013 (GM-CPC)

Geddappa

APPELLANT

Vs

Kalavati and Others

RESPONDENT

Date of Decision : 03-12-2013

Acts Referred:

Citation : (2013) 12 KAR CK 0353

Hon'ble Judges : Ravi Malimath, J

Bench : Single Bench

Advocate : B.V. Somapur, for the Appellant; Sadiq N. Goodwala, Advocate for R1-R5, for the Respondent

Final Decision : Allowed

Judgement

Ravi Malimath, J.—The petitioner filed a suit for injunction. During the examination of P.W. 1 a document was sought to be marked which is said to be a partition deed between the plaintiff and his brother. Objections were raised by the defendants. By the impugned order the objections were upheld. It was held that the partition deed is not admissible in evidence and cannot be marked as an Exhibit. Hence, the present petition. The learned counsel for the petitioner contends that the impugned order is bad in law and liable to be set aside. The counsel for the respondents defends the impugned order.

2. On hearing learned counsels, I am of the considered view that the appropriate relief requires to be granted. The Hon"ble Supreme Court in the case of State of Madhya Pradesh and Another Vs. Bhola @ Bhairon Prasad Raghuvanshi, held that whenever objections with regard to the marking of the documents are raised, the trial Court shall mark the said document tentatively and consider the objections of the other side at the stage of final disposal of the suit Therefore, the objections as raised would have to be kept in abeyance till the disposal of the suit. I am of the considered view that the said Judgment is aptly applicable to the case on hand. In the facts & circumstances of the case it would be just and appropriate that the document be marked tentatively. The objections of the

respondents with regard to the document is necessarily to be considered by the trial Court at the stage of final disposal of the petition.

Consequently, the petition is allowed. The order dated 28-8-2013 passed by the learned Civil Judge & JMFC, Yelburga, in O.S. No. 129/2011 is set aside. The trial Court is directed to mark the partition deed and to record a finding with regard to the objections to the said document at the stage of final disposal of the suit, in terms of the aforesaid Judgment of the Hon"ble Supreme Court.

Ordered accordingly.