
(1988) 06 KAR CK 0007
In the Karnataka High Court
Case No : C.R.P. No. 2961/1988

K.N. Venkataramaniah Setty

APPELLANT

Vs

B.N. Srinivasa and Others

RESPONDENT

Date of Decision : 21-06-1988

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 115

Citation : (1988) 3 KarLJ 208

Hon'ble Judges : M. P. Chandrakantharaj Urs, J

Judgement

Chandrakantharaj Urs, J.-In this revision petition, the learned Counsel for the petitioner has strenuously contended that a very important question of law has arisen for consideration and therefore this revision must be admitted.

2. On a careful consideration of the jurisdiction of this Court under Section 115 of the C.P.C., I am of the opinion that this Court should not interfere with orders passed by the trial Court that too in regard to objections raised while recording evidence of witnesses in regard to the admissibility of documents.

3. Whether a document is admissible or inadmissible is a decision which the Court has to take at the appropriate stage. If an admissible document is not admitted, it will be a good ground in appeal when the suit is disposed of if anything turns on that document. If an inadmissible document is admitted and thereby a party is prejudiced then also it will be a good ground to get the adverse Findings set aside in appeal. Merely because the Court either in ignorance of law or contrary to law declined to admit a document in evidence, this Court cannot under Section 115 of the Civil Procedure Code interfere with that order.

3. It is seen, in proceedings of discretionary nature the Court has to exercise its discretion in regard to the admissibility or inadmissibility in favour of one view or the other. That is no reason why this Court should interfere at this stage because another view is possible.

4. The argument that decision of the Gujarat High Court in the case of Patel Manilal Chhanganlal v The Municipal Corporation, Sural & Others [AIR 1978 Gujrat 193] was brought to the notice of the learned trial Judge and in that it was clearly held that sub-section (5) of Section 57 of the Indian Registration Act had made it imperative that a certified copy of a document entered in Book No. I provided for in sub-section (1) of Section 57 of the Registration Act, is admissible in evidence for proof of contents of the document, in my view, is not of any assistance to the petitioner. That original documents were summoned and the opposite side failed to produce is also of no assistance to the petitioner.

5. In the instant case the original document is said to have been registered in the year 1920. Therefore the apprehension on the part of the plaintiff who objected to the admissibility of the certified copy of the partition deed was that the defendant may claim presumptive value provided for under Section 90 in regard to due execution of the document. It is in the light of that argument the trial Judge held that the object of producing the document was not to prove the contents of the document but to claim the presumption under Section 90 of the Evidence Act. That is a matter which ultimately depends upon the totality of the evidence recorded and the issues framed and decided by the Court. Therefore the proper time at which the relevancy of this document both in regard to its admissibility as well as its contents can only be decided at the stage of appeal if necessary and not at this stage.

6. Any other view would mean that the trial would have to be interrupted at every stage an objection is raised in regard to admissibility or otherwise of a document as the decision of the trial Court has to be adverse to one or the other party. Section 115 is not meant to hinder the progress of the trial and in each case the High Court has to keep this in mind. Therefore this revision petition is rejected.