
(2005) 06 AP CK 0025
In the Andhra Pradesh High Court
Case No : C.R.P. No. 3985 of 2003

V. Anjaneyulu

APPELLANT

Vs

Vadapalli Peddanna @ Peddaiah and Others

RESPONDENT

Date of Decision : 27-06-2005

Acts Referred:

Hindu Adoptions and Maintenance Act, 1956 — Section 16
Registration Act, 1908 — Section 17, 17(1)
Stamp Act, 1899 — Section 5

Citation : (2005) 5 ALD 206 : (2005) 4 ALT 674 : (2005) 4 RCR(Civil) 218

Hon'ble Judges : L. Narasimha Reddy, J

Bench : Single Bench

Advocate : Palivela Satyaraja Babu, for the Appellant; Y. Srinivasa Murthy, for T.S. Anand, for Respondent Nos. 1 and 2., for the Respondent

Final Decision : Allowed

Judgement

L. Narasimha Reddy, J.—This revision raises a short, but important question viz., when an unregistered document evidences two separate transactions, out of which one is compulsorily registrable u/s 17 of the Registration Act, whether the document becomes inadmissible as a whole or can be admitted, in so far as it relates to the transaction, which does not require registration.

2. The petitioner filed O.S.No.78 of 1992 on the file of the learned Senior Civil Judge, Kothagudem for a declaration that he is the adopted son of respondents 1 and 2. the trial of the suit is in progress. During the course of his evidence, he intended to rely upon a document, dated 5-2-1961. This document is said to have been executed by respondents 1 and 2. It refers, firstly, to the factum of adoption of the petitioner by respondents 1 and 2, and thereafter, to the settlement of the property held by them, in favour of the petitioner, on the one hand, and their daughter, by name Ramulamma, on the other. An objection was raised by the respondents as to the admissibility of this document. Reliance was placed upon the judgment of the Supreme Court in Dina Ji and Ors. v. Daddi and

Ors., AIR 1990 SC 1153, .The trial Court sustained the objection and refused to take the document on record. Hence, this revision petition.

3. Sri Palivela Satyarajababu, learned counsel for the petitioner submits that the prayer in the suit is only in relation to the adoption of the petitioner and no right, as such, is claimed on any property held by respondents 1 and 2. He contends that the document witnesses two independent transactions viz., adoption of the petitioner by respondents 1 and 2, and settlement of the property held by them. According to the learned counsel, the transaction of adoption is not required to be compulsorily registered in law and as such, there is no impediment for receiving the document, to that extent. So far as the second part of the document is concerned, learned counsel submits that it is not admissible in evidence, and at any rate, it does not fall for consideration in this suit.

4. Sri Y. Srinivasa Murthy, learned counsel for respondents 1 and 2, on the other hand, submits that the document is inseparable in its contents and once there is a predominant object of settlement of the property, it is not admissible in evidence, as it was not registered. He submits that the reference to adoption of the petitioner in the said document was solely in the context of the settlement and as such, it cannot be viewed in isolation.

5. As observed earlier, the document refers to adoption of the petitioner by respondents 1 and 2, on the one hand, and settlement of the properties held by them in favour of their adopted son and their natural daughter, on the other. There is no dispute that the prayer in the suit is limited to the one of declaration of the status of the petitioner as the adopted son of respondents 1 and 2. The Hindu Adoptions and Maintenance Act, 1956 (for short "the Act") deals with various aspects of adoption, by Hindu parents. The Act does not insist that adoption of a child shall be only through a registered document. Section 16 of the Act provides an indication that registration is not compulsory. According to this, where the adoption is through a registered document and it is signed by the persons giving and taking the child, in adoption, the Court shall presume that the adoption has been made in accordance with the provisions of the Act, till the same is disproved. In other words, it provides for rebuttable presumption, where the adoption is witnessed by a registered deed. It naturally follows that an adoption does not become invalid, on the sole ground that it is not witnessed by a registered document.

6. The settlement of immovable property, however, stands on a different footing. u/s 17(1)(b) of the Registration Act, 1908, any document that creates interest in immovable properties is compulsorily registrable. Therefore, it emerges that the document, in question, deals with two transactions; out of which, one is registrable and the other is not.

7. The trial Court refused to receive the document, on the ground that it was not registered. It is not uncommon that a single document contains several transactions. In fact, Section 5 of the Indian Stamp Act, 1899 refers to such

documents in the context of stamp duty. When it comes to the question of admissibility, law does not prohibit the Courts from bringing about an artificial separation of these two transactions and deal with the same, in accordance with law, in the context of registration. The judgment of the Supreme Court in Dina Ji's case (1 supra) deals with almost a reverse situation. As in the present case, the document in that case witnessed the transaction of adoption and settlement and it was not registered. The High Court treated the document as admissible in relation to both the transactions. The Supreme Court, however, held that the document, in so far as it deals with the transaction of settlement, was inadmissible. The admissibility of the document, as regards adoption, was never doubted at any stage of the proceedings, commencing from the trial Court to the Supreme Court. Therefore, it cannot be said to be an authority for the proposition that the document in relation to adoption is inadmissible, on the ground that it witnesses the transaction of settlement, and that it was not registered.

8. Learned counsel for the respondents submits that the intention of the parties to the document, particularly the executants, has to be viewed in deciding the nature of the document and places reliance upon the judgment of the Privy Council in *Jagannath v. Kunja Behari* 1922 Pri Cou 162. The eventuality or occasion to examine the contents of the document would arise, if only there exists any controversy, when the document is examined with reference to its nomenclature. Even if the course indicated by the Privy Council is adopted in the instant case, it emerges that the document deals with two separate transactions viz., adoption and settlement, and it was not held by the Privy Council or any other Court that if the document becomes inadmissible in relation to one of the transactions, it has to be rejected as a whole.

9. For the foregoing reasons, the Civil Revision Petition is allowed and the order under revision is set aside. The trial Court is directed to take the document on record, only insofar as it relates to adoption of the petitioners, subject to proof. It is, however, made clear that under no circumstances, the trial Court shall deal with the transaction of settlement witnessed by the document. There shall be no order as to costs.