

ORDER ON IA 5

When the matter was posted for further evidence of plaintiff, on 12.03.2024, the plaintiff filed this application U/o 16 rule 6 and 7 R/w sec. 151 of CPC praying to issue witness summons to Witness No. 4 detailed in the witness list with a direction to produce the documents referred in application and to depose the evidence to that effect.

In the affidavit annexed to the application, the plaintiff stated that he filed this suit for the relief of declaration of his title over the suit schedule property and for permanent injunction. In order to develop the suit schedule property, the plaintiff raised loan of Rs.5,00,000/- by mortgaging the register Will dated 26.06.2012 at Pragathi Krishna Gramina Bank, Branch Kabbala. Now in support of his case about declaration of title,

summoning the original registered Will dated 26.06.2012 lying with the witness bank is necessary and prays to allow the application.

Expect D.5, none of the defendants are appeared and placed exparte. Moreover the defendant No. 5 though appeared but not contested the matter.

Heard. Perused the records. It is specific case of the plaintiff is that on the basis of registered Will dated 26.06.2012 executed by One Syed Rasheed in favour of the plaintiff, the revenue records of the suit schedule property are mutated in the name of plaintiff. The plaintiff filed this suit for the relief of declaration of title. The Ex.P.1 is MR No. H20/2013-14 whereby the name of the plaintiff being mutated in the revenue records of the suit schedule properties on the basis of registered Will the plaintiff also placed the RTC extracts of the suit schedule properties standing in the name of plaintiff on the basis of

Ex.P.1 as per Ex.P.10 and 11. The plaintiff also placed the C/C of registered Will as per Ex.P.7. The law mandates that to prove the due execution of the Will, production of original Will and examining one of the attesting witness of such Will before the court in order to claim the rights over such Will. Since the plaintiff filed this suit seeking the relief of title over the suit schedule property, production of original Will i.e., Ex.P.7 is necessary. As per the plaintiffs case, the original of Ex.P.7 is lying with Pragathi Krishna Gramina Bank, Branch Kabbala. Wherefore securing the Will from the said bank for the purpose of this suit is necessary. There is no necessity of giving evidence of the bank official regarding the Will as sought by the plaintiff herein. With these observations I proceed to pass the following,

ORDER

The IA No. 5 so filed by the plaintiff U/o 16 rule 6 and 7 R/w

sec. 151 of CPC is hereby partly allowed.

Issue witness summons to branch Manager, Pragathi Krishna Gramina Bank, Branch Kabbala with a direction to produce the original Will dated 26.06.2012 lying with the account 40893354064919 and development account No. 89315326021916 forthwith by RPAD if PF paid R/by 06.01.2025.

Sd/-

Sr. C. J. and JMFC, Cng.,