

**THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO**

**CRP.No.1916 of 2014**

**ORDER :**

This Revision is filed under Article 227 of the Constitution of India challenging the order dt.03.04.2014 in I.A.No.652 of 2013 in O.S.No.134 of 2007 on the file of Junior Civil Judge, Banaganapalle.

2. The petitioner herein is defendant in the above suit.
3. The respondents filed the said suit against petitioner for specific performance of an agreement of sale dt.12.01.2004 allegedly executed by petitioner in favour of respondents in respect of an extent of Acs.3.00 guntas in Sy.No.140/1 by name Yerramadala Chenu, Rallakotturu Thanda.
4. Written statement was filed by petitioner stating that the survey number was incorrectly mentioned in the suit agreement of sale dt.12.01.2004, and that boundaries in the said suit agreement of sale in fact refer to land in Sy.No.140/3 and not to land in survey No.140/1. He also pleaded that the boundaries prevail over survey number, and that the agreement of sale is void and unenforceable. He also stated that he had no land in Sy.No.140/1, and that the land in the said survey number belongs to one Kommu Rageswaraiah and others. This written statement was filed on 30.10.2007.
5. After trial commenced, I.A.No.652 of 2013 was filed by petitioner under Order VII Rule 14 (3) to receive the original of agreement of sale dt.18.06.1985. In fact, the petitioner ought to have

invoked Order VIII Rule 1A(3) C.P.C instead of Order VII Rule 14 C.P.C.

6. In the affidavit filed in support of this application he contended that the original of agreement of sale dt.18.06.1985 is essential to prove his case; that his sons filed O.S.No.144 of 2006 before the Junior Civil Judge, Banaganapalle against respondents and others for an injunction; though the said suit was dismissed, they had filed an appeal A.S.No.45 of 2009 before the Senior Civil Judge, Nandyal; in that appeal the original of agreement of sale had been filed; the appeal was allowed and the suit was again remanded to the trial court; he recently got the said original agreement of sale from the Court of the Senior Civil Judge, Nandyal; and therefore, he may be permitted to file it and the court may receive it.
7. This application was opposed by respondent disputing the contention of petitioners that he had no land in Sy.No.140/1 and contending that in the original the survey number was mentioned as 140/1, but later the number '1' was altered as '3' and that was why the said document was rejected by the Senior Civil Judge, Nandyal. He also filed a No.3 *Adangal* issued by the Panchayat Secretary of the Tammadapalle Village and counter-signed by the Mandal Revenue Officer, Banaganapalle, stating that the land in Sy.No.140/1 belongs to petitioner.
8. By order dt.03.04.2014, the Court below dismissed the said application stating that petitioner did not state any specific reason for not filing the document earlier. It also observed that since it is executed in his favour, the petitioner ought to explain why it was filed by his son in A.S.No.45 of 2009, and that in any

event, the contention of respondent that the said document was rejected by the Senior Civil Judge, Nandyal had not been denied.

9. Challenging the same, the present Revision is filed.
10. Heard Sri J. Janaki Rami Reddy, counsel for petitioner; and Sri K. Ravi Mahender, counsel for respondent.
11. Although the counsel for petitioner contended that the original of agreement of sale dt.18.06.1985 had in fact been filed in O.S.No.144 of 2006, this contention does not appear to be correct having regard to petitioner's own averment in the affidavit filed in I.A.No.652 of 2013 that the original of this agreement of sale was filed in A.S.No.45 of 2009. It is further corroborated by his own averment in the said affidavit that he got the said original from the Court of the Senior Civil Judge, Nandyal which had decided A.S.No.45 of 2009 arising out of O.S.No.144 of 2006. Therefore, admittedly by the date the petitioner filed his written statement, i.e., 30.10.2007, he had custody of the said original agreement of sale since even according to petitioner it came to be filed in A.S.No.45 of 2009 only in 2009.
12. Under Order VIII Rule 1A(3), a document which ought to be produced in the Court by a defendant along with written statement, but is not so produced, cannot, without the leave of the Court, be received in evidence on his behalf at the hearing of the suit.
13. It is settled law that grant of leave is not for mere asking and if no valid reason is given why the document could not be filed earlier, application to receive the document at a later point of time under

Order VIII Rule 1A cannot be entertained. (See **Voruganti Narayana Rao v. Bodla Rammurthy and others** and **Ravi Satish v. Edala Durga Prasad and others**).

14. Since there is no satisfactory explanation from petitioner why he could not file the said agreement of sale dt.18.06.1985 along with his written statement filed in 2007, I am of the opinion that the Court below was right in dismissing I.A.No.652 of 2013. I therefore do not find any merit in the Revision, and it is accordingly dismissed. No order as to costs.

15. As a sequel, miscellaneous petitions pending, if any, in this Revision shall stand closed.

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**JUSTICE M.S.RAMACHANDRA RAO**

Date: 28.10.2015

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