

HON'BLE SRI JUSTICE R. SUBHASH REDDY

CIVIL REVISION PETITION Nos.2651, 2652
& 2653 of 2014

COMMON ORDER:

These Civil Revision Petitions, under Article 227 of the Constitution of India, are filed aggrieved by orders dated 28.07.2014 passed in three I.As., viz., I.A.Nos.672, 671 and 673 of 2014 respectively in O.S.No.618 of 2013 on the file of the Principal Junior Civil Judge, Vijayawada; as such they are heard together and disposed of by this common order.

2. The respondent herein filed the aforesaid suit for recovery of possession of the suit schedule property alleging that petitioner herein continued in possession as tenant illegally. It is the case of the petitioner that he is not the tenant and the suit schedule premises was let out to a partnership firm by name Venkata Narayana Medical and Fancy Stores, which is being run by Sri Janga Pratap Reddy, who is the son of the petitioner and Smt. G. Santha Pushpam after obtaining necessary licence from the Drugs Control Administration, Krishna District Vijayawada. Earlier, I.A.No.499 of 2014 was filed by the petitioner to summon the Assistant Director and District Licencing Authority, Drugs Control Administration, Krishna District, Vijayawada, which was dismissed. Against the same, petitioner filed C.R.P.No.1703 of 2014 before this

court, which was dismissed, recording a finding that it is for the petitioner to lead cogent evidence to prove his case by way of evidence.

3. On 17.06.2014, evidence in O.S.No.618 of 2013 was closed. Petitioner obtained Form 20 and 21 certificates, to show that he is not the tenant, under the Right to Information Act, 2005 (for short "the RTI Act") and thereafter filed I.A.Nos.672, 671 and 673 of 2014 in the suit. I.A.No.673 of 2014 is filed under Section 151 CPC to reopen the evidence of the petitioner. I.A.No.671 of 2014 is filed to recall the petitioner for adducing evidence. I.A.No.672 of 2014 is filed to receive the documents, viz., (1) office copy application made by the petitioner to the Assistant Director, Drugs Control Administration, Vijayawada under the Right to Information Act, 2005, (2) Form 20 certificate, (3) Form 21 certificate, (4) Declaration certificate from the building owner (plaintiff), (5) Partnership Deed executed in between J Pratap Reddy and Santha Pushpam and (6) Covering letter issued by the Assistant Director, Drugs Control Authority and to mark the same in the suit.

4. I.A.No.672 of 2014 is dismissed only on the ground that Xerox copies certified as true copies by the Information Officer under the RTI Act cannot be equated to certified copies under the Indian Evidence Act. In view of dismissal of I.A.No.672 of 2014, I.A.No.671 and 673 of 2014 were also dismissed consequently. As such, these

three revision petitions are filed.

5. Heard Sri Srinivas Polavarapu, learned counsel for the petitioner and Sri V.S.R. Anjaneyulu, learned counsel for the respondent and perused the material on record.

6. It is contended by the learned counsel for the petitioner that though the documents, which are sought to be filed by recalling the petitioner and reopening his evidence, are relevant for adjudication of the issue involved in the suit, the trial court dismissed the I.As., filed by the petitioner without assigning valid reasons. It is further contended that, on application made by the petitioner and on payment of required fees, copies of the original documents are furnished which are certified to be true by the public officer; in that view of the matter, they are certified copies within the meaning of Section 76 of the Indian Evidence Act; as such, there is no reason for refusing to mark such documents.

7. On the other hand, it is contended by the learned counsel for the respondents that, information furnished under the RTI Act cannot be used for the purpose of resolving dispute between the parties. It is further contended that Xerox copies which are furnished cannot be treated as certified copies. In support thereof, learned counsel relied on the decisions, viz., **Thalappalam Service Cooperative Bank Ltd., and others v. State of**

Kerala and others^[1] of the Hon'ble Supreme Court and **Vijay Prakash v. Union of India & Ors.**^[2] of the Delhi High Court.

8. Whereas it is the case of the respondent-plaintiff that petitioner-defendant is a tenant in the suit schedule premises, it is the case of the petitioner-defendant that he is not the tenant and partnership firm by name Venkata Narayana Medical and Fancy Stores, represented by its partners, is the tenant. For the purpose of running the store, application was made and licence was obtained as required under the provisions of the Drugs and Cosmetics Act, 1940. To prove the case that petitioner is not the tenant in the suit schedule premises, earlier, when I.A.No.499 of 2014 was filed by the petitioner to summon the Assistant Director and District Licencing Authority, Drugs Control Administration, Krishna District, Vijayawada, the same was rejected by the trial court on the ground that it is for the petitioner to lead cogent evidence, but the officer cannot be summoned the purpose of proving the case of the petitioner. When the matter was carried in revision before this court, the order of trial court was confirmed by dismissing the revision. It appears, in the light of the observations made by this court, again, petitioner approached the Public Information Officer and applied for certified copies of the documents, viz., (1) office copy application made by the petitioner to

the Assistant Director, Drugs Control Administration, Vijayawada under the Right to Information Act, 2005, (2) Form 20 certificate, (3) Form 21 certificate, (4) Declaration certificate from the building owner (plaintiff), (5) Partnership Deed executed in between J Pratap Reddy and Santha Pushpam and (6) Covering letter issued by the Assistant Director, Drugs Control Authority and filed the I.As., in the suit. I.A.No.673 of 2014 is filed under Section 151 CPC to reopen the evidence of the petitioner. I.A.No.671 of 2014 is filed to recall the petitioner for adducing evidence. I.A.No.672 of 2014 is filed to receive the said documents. The trial court dismissed the I.As., by the orders impugned, mainly on the ground that Xerox copies of the documents which are certified to be true, cannot be read as evidence in view of the judgment of a learned single Judge of this court in

K. Bhaskar Rao vs. K.A. Rama Rao ^[3].

9. At this stage, it is apposite to refer to the provision under Sections 72, 74, 75 and 76 of the Indian Evidence Act, 1872. Section 74 deals with public documents. Section 75 deals with private documents and Section 76 deals with certified copies of public documents. Section 76 reads as under:

“Every public officer having the custody of a public document, which any person has a right to inspect, shall give that person on demand a copy of it on payment of the legal fees therefor, together with a certificate written at the foot of such copy that it is a true copy of such

document or part thereof, as the case may be, and such certificate shall be dated and subscribed by such officer with his name and his official title, and shall be sealed, whenever such officer is authorized by law to make use of a seal; and such copies so certified shall be called certified copies.”

10. From a reading of the aforesaid provision, it is clear that when a public document which is in the custody of the public officer is sought for by paying legal fee therefor, it is obligatory on the part of such officer to give a copy of the original with a certificate written at the foot of such copy that it is a true copy of such document or part thereof. Such document shall be signed and stamped by the public officer and such copies so certified shall be called certified copies. In the instant case, it is not in dispute that the office of Assistant Director and District Licencing Authority, Drugs Control Administration, Krishna District, Vijayawada is a public office.

On information sought under the provisions of the RTI Act, all the documents were certified to be true copies and were issued on payment of legal fees therefor, with stamp and signature of the public office; as such they are certified copies. In view of the compliance of the requirements as contemplated under Section 76 of the Indian Evidence Act in full, the judgment in *K. Bhaskar Rao* (3 supra), as relied on by the trial court, cannot be applied to the facts of the case on hand. Further, the judgments in the case of *Thalappalam Service*

Cooperative Bank Ltd., (2 supra) and *Vijay Prakash* (3 supra) as relied on by the learned counsel for the respondent are also not applicable to the facts of the case on hand. The judgment in the case of *Thalappalam Service Cooperative Bank Ltd.*, deals with the issue namely whether Non-Government Organisations (NGOs) fall within the definition of “public authority” under Section 2(h)(d)(i) of the RTI Act. The judgment in the case of *Vijay Prakash*, deals with the exemption clause under Section 8(1)(j) of the RTI Act. The said judgments also would not render any assistance to the case on hand.

11. Having regard to the facts and circumstances of the case,

this court is of the view that as the documents which are furnished are certified to be true copies under the RTI Act, they have complied the requirement under Section 76 of the Indian Evidence Act and the same can be used as evidence if they are necessary for adjudication of the issues which fall for consideration in the suit. As the trial court has rejected the I.A., only on the ground that the documents cannot be considered as certified copies within the meaning of Section 76 of the Indian Evidence Act, the order dated 28.07.2014 passed in I.A.No.672 of 2014 and the consequential orders passed in I.A.Nos.673 and 671 of 2014 are fit to be set aside.

12. Accordingly, the order dated 28.07.2014 passed in

I.A.No.672 of 2014 and the consequential orders passed in I.A.Nos.673 and 671 of 2014 are set aside. The matter is remanded for fresh consideration by the trial court. The trial court shall consider the matter afresh, without reference to the objection that the copies furnished by the petitioner are not certified copies, and pass appropriate orders, as expeditiously as possible preferably within a period of four weeks from the date of receipt of this order.

13. The Civil Revision Petitions are allowed to the extent indicated above. No order as to costs. As a sequel, miscellaneous petitions if any pending stand closed.

R. SUBHASH REDDY, J

27th March 2015
MRR

[\[1\]](#) (2013) 16 SCC 82

[\[2\]](#) AIR 2010 DELHI 7

[\[3\]](#) 2010 (5) ALD 339