

THE HON'BLE SRI JUSTICE C.PRAVEEN KUMAR

CIVIL REVISION PETITION Nos.5135 and 5273 of 2015

COMMON ORDER:

C.R.P.No.5135 of 2015 is filed, aggrieved by the order dated 21.09.2015 passed in I.A.No.221 of 2015 in O.S.No.30 of 2004 on the file of the Junior Civil Judge, Peddapalli, wherein an application made under Order VII Rule 14 (3) of C.P.C. praying to receive the documents for marking them as exhibits, was dismissed. C.R.P.No.5273 of 2015 is filed aggrieved by an order dated 21.09.2015 passed in I.A.No.219 of 2015, wherein an application made under Order 18, R.17 of C.P.C. to recall PW.1 for the purpose of marking the documents, was rejected.

Since the issue involved in both the Civil Revision Petitions filed under Article 227 of the Constitution of India are interconnected, they are being disposed of by this common order.

The facts in issue are as under:

The petitioner herein filed O.S.No.30 of 2004 seeking declaration and perpetual injunction. The husband of the plaintiff along with G.Rajaiah and Bakkaiah purchased land admeasuring Ac.0.07 gts in Sy.No.260 of Bommareddypalli, Dharmaram Mandal, Karimnagar District from Kampelli Bondaiah through a registered sale deed No.1663 of 1982 dated 19.11.1982. After the death of her husband, the plaintiff succeeded the said property. Taking advantage of the misplacement of the original registered sale deed, when defendant No.1 was trying to sell the suit land to defendant Nos.2 and 3, O.S.No.30 of 2004 came to be filed seeking declaration and

perpetual injunction. When the said suit was posted for arguments, the plaintiff filed two applications, one is for receiving certain documents and another is to recall PW.1 for the purpose of marking the said documents.

Respondent No.1 herein filed counter in both the applications stating that though the suit was coming for arguments since long time, PW.1 did not take any steps for advancing arguments in the matter and there is no need to recall PW.1 for marking the documents. It is also stated that the documents filed by the petitioner are not concerned to the suit as parties to the documents are not parties in the suit, as such the documents are not necessary for adjudicating the suit.

After considering the arguments advanced, the trial Court dismissed both the petitions. Aggrieved by the same, the present revision petitions are filed.

Learned counsel for the petitioner submits that the husband of the petitioner purchased the suit schedule property from one Kompalli Bondaiah, who is the protected tenant of the respondent No.4 herein. Respondent No.4 herein gave an affidavit in O.S.No.343 of 1993 which was filed against Kompalli Bondaiah and others. The said suit was dismissed. Hence, it is contended that the documents i.e. judgment and decree in O.S.No.343 of 1993 and the third party affidavit of defendant No.4 in the present suit, are necessary for adjudicating the suit in an effective manner.

A perusal of the copy of the affidavit in I.A. which has been filed before the trial Court would show that the petitioner herein sought marking of judgment and decree in O.S.No.343 of 1993 and also the attested copy of the third party affidavit of Sama Raji reddy. In the Memorandum of grounds filed along with this Civil Revision Petition, the petitioner intends to mark the affidavit of Puskuri Narayana Rao and in support of the same he placed on record a copy of the affidavit. Therefore, the affidavit which is sought to be marked in this revision is different from the one which was sought to be marked in

the lower Court. No clarification of any sort is made in this regard. Apart from that the averments in the affidavit filed in support of the petition does not anywhere say as to how the said document is useful to the case of the petitioner/plaintiff.

Insofar as the other two documents namely the judgment and decree in O.S.No.343 of 1993 are concerned, the parties herein were not parties to the said proceedings. Further, the claim of the petitioner is that she came to know about the judgment and decree 23 years later and taking the said plea as a ground for getting the same marked through PW.1, who was not a party to the said proceedings, cannot be accepted. A reading of the orders under challenge shows that the property in both the suits also appear to be different. Apart from that, it is to be noted that the suit is of the year 2004 and when the same is posted for arguments, the present applications came to be filed. It is not in dispute that the documents if relevant can be taken into consideration at any stage of the proceedings. In ***Ravi Satish v. Edala Durga Prasad*** this Court held that grant of leave by the Court for receiving the documents shall not be on mere asking nor is the Court a mere Post-office to receive documents even in the absence of any reasons furnished for failure to file the said documents along with the plaint.

In view of the judgment referred to above and having regard to the circumstances stated above, I am of the opinion that the petitioner failed to furnish proper and sufficient reasons for receiving the documents at a belated stage.

For the aforesaid reasons, the present Civil Revision Petitions sans merit and the same are accordingly dismissed. No order as to costs.

As a sequel thereto, Miscellaneous Petitions pending if any, shall stand closed.

JUSTICE C.PRAVEEN KUMAR

23.12.2015

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