

HON'BLE SRI JUSTICE S. RAVI KUMAR

CIVIL REVISION PETITION No.3077 of 2015

Dated : 04.09.2015

Between :

Thadgury Ashok S/o. Shankarappa

And two others.

... Petitioners.

A N D

Masanpally Bhadraiah S/o.Late Parvaiah

and another

.... Respondent

HON'BLE SRI JUSTICE S. RAVI KUMAR

CIVIL REVISION PETITION No.3077 of 2015

ORDER:

This revision is preferred challenging the order of the Junior Civil Judge, Andole at Jogipet, Medak District dated 09.04.2015 in I.A.No.16 of 2015 in O.S.No.48 of 2008.

2. The revision petitioners herein are defendants in O.S.No.48 of 2008 and they filed certain documents with a petition to receive them and the trial Court while receiving some documents refused to receive other documents on the ground that one is secondary evidence and the other is not a certified copy within the meaning of Indian Evidence Act, 1872. Challenging the said order, present revision is preferred.

3. Heard both sides.

4. Advocate for petitioners submitted that mortgage deed is a registered document and the petitioners filed registration extract of the mortgage deed along with the written statement, but, as the said document do not contain the signature of parties, petitioners obtained a Xerox copy duly attested by a Gazetted Officer from the person holding that mortgage deed and filed, but the trial Court refused to receive the said document on the ground that it not a primary document. He further submitted that petitioners obtained certain documents under the Right to Information Act, 2005 and filed them, but the trial Court has not accepted the same on the ground that they cannot be treated as certified copies within the meaning of Indian Evidence Act. He submitted that those documents are very much relevant and necessary to prove the defence of the defendant and the trial Court without giving opportunity to the petitioners refused to receive those documents on technical grounds, therefore, the order of the trial Court has to be set aside.

5. On the other hand, learned counsel for the respondent/plaintiff submitted that all the documents are not admissible in evidence, therefore, trial Court was right in refusing to receive those documents and that there is no error or illegality in the order of the trial Court to be interfered by this Court.

6. I have perused the material papers filed along with revision and the impugned order dated 09.04.2015. The main ground on which trial Court refused to receive documents are that the proposed documents, one document is not a primary document and the other document is not certified copy within the meaning of the Evidence Act. As seen from the material, trial court was right in refusing to receive those documents on the ground indicated in the order. The main argument of the advocate for revision petitioners is that those documents are very much relevant for the purpose of deciding dispute between the parties in the suit. If that is so, petitioners have to invoke the procedure for production of original documents by filing appropriate petition, but they cannot ask the Court to receive secondary evidence without exhausting the steps contemplated in

the C.P.C. for production of documents which are relevant for the petitioners to prove their defence. On a scrutiny of the material, I am of the view that the trial Court has not committed any error and I do not find illegality or irregularity in the order of the trial Court and there is nothing to interfere by this Court by exercising revisional powers. Therefore, the revision is liable to be dismissed.

7. Accordingly, this revision is dismissed. However, the petitioners are at liberty to take appropriate steps to summon those documents if the petitioners consider that they are necessary and relevant. No costs.

8. Miscellaneous Petitions, if any, shall stand dismissed.

S. RAVI KUMAR, J

4th September 2015.

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