

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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CIVIL REVISION PETITION No.4168 of 2015

ORDER:

Heard the learned counsel for petitioner and none appeared for respondent.

2. The petitioner herein is plaintiff in O.S.No.176 of 2012 on the file of the Court of the Senior Civil Judge, Piler (for short, trial Court). He filed the said suit for recovery of damages of Rs.2 lakhs on the ground that the respondent/defendant was defaming him by way of printing in the papers and sending them to officials stating that he is not the son of A.Subbaramaiah. After two years of filing the suit, the petitioner filed I.A.No.500 of 2014 seeking condonation of delay in filing certain documents on the ground that the said documents were misplaced in his house and hence he could not file them along with the plaint. The relevant portion of the affidavit filed by the petitioner reads as follows:

“2. I further submit that the defendant alleged that I am not the son of Asanapuramm Subbaramaiah and that I am the son of Siddaiah who belongs to Irla by caste. I further submit that due to the acts of the defendant, I defamed in the society and my reputation is so much damaged. I further submit that in order to prove that I am the son of Asanapuram Subbaramaiah. I am herewith filing some documents whose description is given over leaf in the petition. As the said documents were misplaced in the house, I could not able to file the same at the earliest point of time. Hence the Honourable Court may be pleased to condone the delay in failing the documents into the Court and take the same on to file and mark the same in the evidence in the interest of justice. Otherwise, I will be put into great loss and hardship.”

3. A counter-affidavit was filed opposing the said application. The trial Court dismissed the said application, by order dated 21.11.2014, holding as follows:

“13. In the case on hand, the petitioner contended that the documents are recently traced out but when the documents are traced out is not at all stated by the petitioner in the petition and even the petitioner has not mentioned in plaint anything about the existence of the said documents and more over the said

documents are public documents. If at all the petitioner was advised that the said documents are crucial documents to prove his case, there is no impediment to the petitioner to obtain the copies of the said documents if originals are lost and produce the same along with the plaint or before commencement of trial but the petitioner has not taken any such steps to produce the said documents at proper time and failed to show sufficient cause for non filing the said documents before commencement of trial, as such and in view of the Law laid down supra, since the petitioner has not shown any sufficient cause for non filing the said documents before commencement of trial or at the time of filing of the suit, I do not find any convincing reasons to grant leave to the petitioner to receive the documents at belated stage. Therefore, this point is answered accordingly against the petitioner and in favour of the respondent.”

4. In the light of the averments in the affidavit, the order of the trial Court is correct. The suit itself is filed for recovery of damages from the defendant and he already made averments with regard to the defamatory statements alleged to have been made by the defendant. If the petitioner wanted these documents, he should have filed them along with the plaint. The documents cannot be allowed after two years of filing of the suit merely on the ground that they were misplaced.

5. In the circumstances, I see no reason to interfere with the order of the trial Court and therefore the Civil Revision Petition is dismissed. No order as to costs. Miscellaneous Petitions, if any pending, shall stand closed.

A.RAMALINGESWARA RAO, J

Date: 28.12.2015
TJMR