

**THE HON'BLE SRI JUSTICE M.S. RAMACHANDRA RAO**

-  
**C.R.P.No.832 of 2014**  
-

**ORDER:**

Heard Sri V.Nitesh, learned counsel for the petitioner and Sri M.N.Narasimha Reddy, learned counsel for the respondent Nos.1 and 2.

2. This Revision Petition is filed under Article 227 of the Constitution of India challenging the Order dt.21-02-2014 in I.A.No.86 of 2014 in O.S.No.533 of 2006 of the Principal Junior Civil Judge, Proddatur.

3. The petitioner in this Revision Petition is 1<sup>st</sup> defendant in the above suit. The said suit was filed by respondents against the petitioner and one Kota Satyanarayana (D-2) to declare that the *ex parte* decree dt.11-03-2002 in O.S.No.60 of 2002 of the Principal Junior Civil Judge, Proddatur is null and void and for a consequential perpetual injunction restraining the defendants from interfering with peaceful possession and enjoyment of the plaint schedule property.

4. Written Statement was filed in the present suit in September 2006. Issues were framed. Trial commenced and the evidence on plaintiff side is completed.

5. At that stage on 10-02-2014, I.A.No.86 of 2014 has been filed by the petitioner/1<sup>st</sup> defendant under Order VIII Rule 1A (3) CPC, 1908 seeking leave to the Court to file certain documents.

6. In the affidavit filed in support of this application, the petitioner did not state any reason as to why the delay occurred in filing these documents along with written statement.

7. This application was opposed by 1<sup>st</sup> respondent on the ground that there is no reason assigned by the petitioner for delay in filing the documents now sought to be filed and that some of the documents sought to be filed are photo copies and they cannot be marked. It is also urged that this application is filed only to drag on the case.

8. By order dt.21-02-2014, the Court below dismissed the said I.A. on the ground that no reason has been assigned by the petitioner why the documents in question were not filed along with the written statement.

9. Challenging the said order, this Revision Petition is filed.

10. Learned counsel for the petitioner contends that the documents now sought to be filed are relevant for proving the case of the petitioner and even though no reason has been assigned as to why the delay occurred in filing these documents, no prejudice would be caused to the respondents if the application is allowed, and that the documents can be received in evidence.

11. The learned counsel for the respondents on the other hand contended that the trial had commenced. Evidence on the plaintiff's side is completed. At this stage, if the petitioner is allowed to mark fresh documents, it would cause prejudice to the respondents/plaintiffs. He reiterated that the petitioner, having filed the written statement in September 2006, had dragged on the matter and woken up from his slumber on 10-02-2014, almost 7 ½ years later, and filed this application and there are no *bona fides* in filing this application.

12. Order VIII Rule 1 (A) CPC states;

<sup>1</sup>[1A. *Duty of defendant to produce documents upon which relief*

*is claimed or relied upon by him*

*(1) Where the defendant bases his defence upon a document or relies upon any document in his possession or power, in support of his defence or claim for set off or counter claim, he shall enter such document in a list, and shall produce it in Court when the written statement is presented by him and shall, at the same time, deliver the document and a copy thereof, to be filed with the written statement.*

*(2) Where any such document is not in the possession or power of the defendant, he shall, wherever possible, state in whose possession or power it is.*

*<sup>2</sup>[(3) A document which ought to be produced in Court by the defendant under this rule, but, is not so produced shall not, without the leave of the Court, be received in evidence on his behalf at the hearing of the suit.]*

*(4) Nothing in this rule shall apply to documents-*

*(a) produced for the cross-examination of the plaintiffs witnesses, or*

*(b) handed over to a witness merely to refresh his memory.]”*

13. A reading of the above Rule shows that every document on which defendant basis in defence should be produced in the Court when the written statement was presented by him and any document which ought to have been produced at that time but could not do so, shall not, without the leave of the Court, be received in evidence on his behalf at the hearing of the suit.

14. This Court in **Ravi Satish Vs. Edala Durga Prasad**<sup>[1]</sup> has held that the leave sought to receive the documents can only be granted on furnishing adequate reasons justifying the failure on the part of the applicant in not filing the documents along with written statement earlier.

15. Since admittedly petitioner has not furnished any reason in his affidavit filed in support of I.A.No.86 of 2014 for not filing these documents along with written statement, I am of the

opinion that the Court below had rightly rejected I.A.No.86 of 2014 and denied leave to the petitioner to file these documents. Also since evidence of the plaintiff's side has concluded, it would cause great prejudice to the plaintiffs, if the petitioner/1<sup>st</sup> defendant is permitted to file fresh documents at this stage.

16. So I do not find any error of jurisdiction in the order passed by the Court below warranting interference by this Court under Article 227 of the Constitution of India.

17. The Civil Revision Petition fails and the same is accordingly dismissed. No costs.

18. As a sequel, the miscellaneous petitions, if any pending, shall stand closed.

---

**JUSTICE M.S. RAMACHANDRA RAO**

Date : 22-01-2015  
kvr

---

[\[1\]](#) 2009 (3) ALT 236 = 2009 (60) Civil CC (A.P.)