

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

CIVIL REVISION PETITION No.1171 of 2015

ORDER:

This Revision is filed challenging the order dt.20-02-2015 in I.A.No.96 of 2015 in O.S.No.18 of 2013 of the Junior Civil Judge, Vuyyuru, Krishna District.

2. The petitioners herein are defendants in the suit. The respondent/plaintiff filed the suit for partition of the plaint schedule properties. The petitioners filed written statement opposing the suit claim.
3. Thereafter on 05-02-2015, the petitioners filed an application under VIII Rule 1A (3) of C.P.C. to receive certain documents alleging that they had been previously misplaced and have now been traced.
4. This application was opposed by respondent, who not only disputed this plea of petitioners, but also stated that these documents had been created subsequently. It was contended that petitioners had not mentioned any reason why they did not file these documents along with written statement. They contended that unless proper and sufficient reasons are furnished for not producing these documents along with the written statement, the petitioners cannot be allowed to file these documents at this stage.
5. By order dt.20-02-2015, the Court below dismissed this application stating that the petitioners had not assigned any

reason for their failure to file these documents along with their written statement.

6. Challenging the same, this Revision is filed.
7. Heard Sri S.M. Subhani, learned counsel for petitioners and Sri Aadesh Varma, learned counsel for respondent.
8. Order VIII Rule 1A C.P.C. directs that if 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 produce it in Court when the written statement is presented by him and shall also deliver the document and a copy thereof to be filed with the written statement. Sub-rule (3) directs that a document which ought to be produced in Court by the defendant, 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.
9. In **Ravi Satish Vs. Edala Durga Prasad and Voruganti Narayana Rao Vs. Bodla Rammurthy and others** this Court interpreted this provision and held that grant of leave by the Court is not for the mere asking and the Court is not a mere a post-office to receive the documents even in the absence of any reasons furnished for failure to file the said documents along with the written statement.
10. In the latter case, which is similar to the present case where a plea of misplacement of documents was raised, this Court had held that in the absence of a specific plea what documents were misplaced and that in spite of due diligence, the documents could not be traced or a plea as to when the documents were

traced, the application under Order VIII Rule 1-A C.P.C., cannot be allowed.

11. It is no doubt true that the Court below was not correct in stating that no reasons had been assigned by petitioners for not filing the documents in question belatedly. But I am of the opinion that the reasons given by petitioners that they were misplaced, cannot be accepted. If such a reason is accepted, in no case can order VIII Rule 1A(3) C.P.C. be implemented.
12. Therefore, I do not find any merit in the Revision and it is accordingly dismissed. No costs.
13. As a sequel, miscellaneous petitions pending if any, shall stand closed.

JUSTICE M.S. RAMACHANDRA RAO

Date: 29-10-2015

Vsv