

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

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CIVIL REVISION PETITION No.1456 of 2015

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ORDER:

This revision, under Article 227 of the Constitution of India, is preferred against the order passed by the Principal Junior Civil Judge, Chittoor in I.A.No.1075 of 2014 in O.S.No.572 of 2009 dated 29.01.2015. The petitioners herein is the respondents in I.A.No.1075 of 2014.

The respondents-defendants filed the aforesaid I.A, under Order VIII Rule 1 (a) (3) CPC, seeking leave of the Court to file the document dated 02.07.1974. In the affidavit, filed in support of the I.A., the respondents-defendants contended that there was a mediation, conducted by elders between them and the plaintiff; the document was written on 02.07.1974 which was signed by the first defendant; it was attested by elders, and was scribed by one Sri T.G.Purushotham Pillai; a copy of the document was also filed, and the original document could not be filed by mistake and oversight; and, as it now came to light and as he could not file the original document earlier, he was filing the same now.

An elaborate counter-affidavit was filed by the petitioner herein, before the Court below, stating that the said document, sought to be marked, was beyond the scope of the pleadings; neither was there any plea in the written statement, nor was a copy of the said document filed along with the written statement; and a totally new document, contrary to the pleadings, was sought to be introduced.

By the order under revision, the Court below has opined that the admissibility of the proposed document would be considered at the time of

marking the same; the contention that the application was filed belatedly would also be gone into at that stage; and, since the suit was coming up for further evidence of the defendants, leave could be granted to the respondents-defendants so as to receive the proposed document. The I.A. was allowed subject to admissibility, proof and relevancy of the proposed document.

Sri L.J.Veera Reddy, learned counsel for the petitioner, would submit that the Court below had erred in receiving the document which had no connection with the pleadings in the suit. While the submissions of Sri L.J.Veera Reddy, learned counsel for the petitioners, that no evidence contrary to the pleadings can be adduced; the said document was not even referred to in the written statement or enclosed therewith; and a totally new case was now sought to set up by having the said document marked, cannot be said to be without merit; the order of the Court below would enable the petitioners herein to raise all these objections when the said document is sought to be marked. The Court below has, in the order under revision, made it clear that the document would be received subject to its admissibility, proof and relevance. The said order safeguards the interest of the petitioners-plaintiffs herein. The jurisdiction which this Court exercises, under Article 227 of the Constitution of India, is only if substantial injustice has been caused to the person who has invoked its jurisdiction. The order of the Court below, receiving the document subject to its admissibility, proof and relevance, cannot be said to have caused substantial injustice to the petitioners herein.

Leaving it open to the petitioners herein to raise all such objections as are available to them in law, including those raised by them in the counter filed to I.A.No.1075 of 2014, when the defendants seek to mark the said document, the Civil Revision Petition is dismissed. Miscellaneous petitions pending, if any, shall also stand dismissed. There shall be no order as to costs.

RAMESH RANGANATHAN, J

24th April, 2015.

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