

**THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO**

**CRP.Nos.3075 and 3133 of 2010**

**COMMON ORDER :**

Since these two Revisions arise between the same parties in the same suit, they are being disposed of by this common order.

**2.** The petitioner herein is the defendant in suit O.S.No.172 of 2005 on the file of Additional Senior Civil Judge, Srikakulam.

**3.** The 1<sup>st</sup> respondent herein filed the said suit against the petitioner for declaration of title, recovery of possession and for a mandatory injunction.

**4.** Trial commenced and the evidence of both sides was closed. The case was posted to 02.12.2009 for hearing arguments. At that stage, the petitioner herein filed I.A.No.90 of 2010 to re-open the suit, and I.A.No.91 of 2010 to permit the petitioners to file certain documents, and mark them as exhibits in the suit.

**5.** By separate orders dt.03.03.2010, the Court below dismissed both the I.A.s. It held that petitioner had not shown any reasons why he could not file these documents along with the written statement; that one of those documents is a document dt.13.12.1996 which was executed nine years prior to the filing of the suit; that the

petitioner is presumed to be in possession thereof; that the sale deed is an unregistered document and therefore, it is inadmissible in evidence; and since I.A.No.91 of 2010 is dismissed, the other I.A. also needs to be dismissed.

**6.** Challenging the order in I.A.No.90 of 2010, the petitioner filed CRP.No.3133 of 2010; and challenging the order in I.A.No.91 of 2010, the petitioner filed CRP.No.3075 of 2010.

**7.** Heard Sri A. Rama Rao, counsel for petitioner. Notice to 1<sup>st</sup> respondent has been served, but none appears for respondent.

**8.** From the facts narrated above, it is clear that petitioner had filed the application to receive documents including the sale deed dt.13.12.1996 when the matter was posted for hearing of arguments. In the affidavit filed in support of I.A.No.91 of 2010 it was only stated that the documents sought to be filed were misplaced and had been traced out only on 22.06.2009.

**9.** In my considered opinion, the said reason cannot be accepted for the reason that the petitioner is expected to file it along with the written statement.

**10.** Grant of leave under Order 8 Rule 1-A(3) C.P.C. is not for mere asking, and unless sufficient cause is shown for not filing a document earlier, the court is not bound to

grant leave.

**11.** Therefore, I do not find any merit in I.A.No.91 of 2010 and I hold that the said I.A. was rightly dismissed by the Court below. Therefore, CRP.No.3075 of 2010 is dismissed.

**12.** Once I.A.No.91 of 2010 is dismissed, there is no purpose in re-opening the matter. Therefore, I.A.No.90 of 2010 is also dismissed. Consequently, CRP.No.3133 of 2010 is dismissed. No order as to costs.

**13.** As a sequel, miscellaneous petitions pending, if any, in these Revisions shall stand closed.

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**JUSTICE M.S.RAMACHANDRA RAO**

Date: 02.09.2015

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