

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

—
CIVIL REVISION PETITION No.1173 of 2015

ORDER:

Heard the learned counsel for petitioners and the learned counsel for respondents 2 to 5.

2. The petitioners herein are defendants 2, 3 and 6 to 11, respondents 1 to 5 herein are plaintiffs and respondents 6 and 7 herein are defendants 4 and 5 in O.S.No.43 of 2002 pending on the file of the Court of the Senior Civil Judge, Sompeta (for short, trial Court). Respondents 1 to 5 filed the said suit seeking a mandatory injunction. After completion of evidence of the plaintiffs, the petitioners filed I.A.No.10 of 2015 for receiving the certified copies of the Will dated 03.11.1953 and the fair adangal dated 24.11.2002 issued by the Mandal Revenue Officer, Palasa and the same was dismissed, by order of the trial Court dated 06.02.2015. Challenging the same, the present Civil Revision Petition is filed.

3. The trial Court dismissed the said application on the ground that no explanation was given in the petition seeking permission to file the documents, except stating that they were misplaced when they were supposed to be filed along with the written statement. It was further stated that the relevancy of the documents to the case was not explained and there was no whisper about the documents in the written statement. The order of the trial Court further states that the suit is of the year 2002 and was the identified one.

4. The learned counsel for the petitioners brought to my notice the averments in the written statement relating to the Will dated 03.11.1953 and submits that the trial Court is not correct in stating that there is no whisper about the documents in written statement. On the other hand, the learned counsel for the respondents 2 to 5 submits that the affidavit is bereft of any explanation for filing the documents at a belated stage

and the documents are filed in order to drag on the proceedings.

5. The proof and relevancy of the documents would be considered during the course of trial. Though there was no proper explanation for filing the documents except stating that they were misplaced, the application of the petitioners should have been allowed on payment of some costs in the interest of justice.

6. In the circumstances, the impugned order of the trial Court dated 06.02.2015 is set aside and I.A.No.10 of 2015 is allowed on payment of costs of Rs.1,000/- to respondents 1 to 5/plaintiffs. The trial Court is directed to complete the trial of the suit as expeditiously as possible, but not later than six months from the date of receipt of a copy of this order. The parties to the suit shall cooperate with the conclusion of the trial.

7. The Civil Revision Petition is, accordingly, allowed. No order as to costs. Miscellaneous Petitions, if any pending, shall stand closed.

A.RAMALINGESWARA RAO, J

Date: 19.11.2015

Note: Issue CC by 23.11.2015.

B/o. TJMR