

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

CRP.No.3405 of 2014

ORDER :

This Revision is filed under Article 227 of the Constitution of India challenging the order dt.06.08.2014 in I.A.No.572 of 2014 in O.S.No.825 of 2008 on the file of XI Additional District Judge (F.T.C.), Ranga Reddy District, at L.B. Nagar.

2. The petitioner herein is the plaintiff in the above suit.

3. She filed the suit for declaration of her title and recovery of possession.

4. The respondents filed a written statement opposing the suit claim.

5. Issues were framed on 20.02.2010, and evidence on the side of plaintiff was concluded on 21.02.2013. Thereafter, evidence of respondents/defendants commenced. Their evidence was closed on 23.07.2013, and the matter was then posted for arguments to 19.08.2013. For a short time thereafter, the presiding officer was on transfer. The new officer took charge on 09.10.2013.

6. On 27.01.2014, the petitioner appeared in court in

person and re-presented that her Advocate is not attending the court for the previous one year, and sought time to engage a new Advocate. Thereafter, a new counsel by name D.M. Kumar filed vakalat on her behalf.

7. The matter was pending in that way, and on 23.07.2014, exactly one year after the evidence on the side of defendants was closed, the petitioner filed I.A.No.572 of 2014 under Section 45 of the Indian Evidence Act, 1872 to send sale deed Ex.B.2 dt.19.01.1978 to a hand-writing and finger printing expert for comparison with the signatures and thumb impressions of plaintiff thereon.

8. In the affidavit filed in support of this application, it is stated that after the trial was completed and the matter was posted for arguments, the petitioner engaged a Senior Advocate who advised her to file the present application and to request the court to obtain petitioner's signature and thumb impression in the open court for comparing the same with the disputed signature and thumb impressions on the sale deed under Ex.B.2 dt.19.01.1978 and have it sent to an expert for his opinion.

9. Counter-affidavit was filed by respondent nos.1 and 2 opposing the said application. They contended that the suit is posted for arguments on a number of occasions and the petitioner was not co-operating in arguing the

matter; that engaging a new counsel is no ground to entertain this application; and that the application is filed only to drag on the proceedings.

10. By order dt.06.08.2014, the Court below dismissed the said application. It held that the suit was filed seven years back and no petition had been filed to send the disputed sale deed to an expert earlier to present I.A.; that since September, 2013, the matter was adjourned on a number of occasions and even after engaging a new Advocate, the petitioner was not ready to proceed with the arguments; that the application is not *bona fide* and there is abnormal delay in filing this petition.

11. Challenging the same, the present Revision is filed.

12. Heard Sri T. Surya Kiran Reddy, counsel for petitioner; Sri V.L.N.G.K. Murthy, counsel for respondent nos.1 to 3; and Sri Ch. Shashi Bhushan, counsel for respondent nos.4 and 5.

13. The counsel for petitioner contended that the order passed by the Court below is unsustainable and since the petitioner is a senior citizen, opportunity should have been given to her by the Court below to refer the said sale deed to an expert since only after changing Advocate she was advised to seek such expert opinion.

14. On the other hand, the counsel for respondents refuted the above contentions. He stated that the order passed by the Court below is correct and since the petitioner had filed this petition one year after the evidence of defendants is closed, she is not acting in a *bona fide* manner, and therefore, the court was right in dismissing the said I.A.

15. I have noted the submissions of both sides.

16. The counsel for petitioner has placed before me certified copy of the docket orders passed by the Court below ever since the inception of the suit. It reveals that the evidence of petitioner/plaintiff was completed on 21.02.2013, the evidence of defendants was closed on 23.07.2013 and the matter was posted for arguments and was coming up for arguments from September, 2013 onwards. On 23.07.2014, exactly one year after the evidence of defendants was closed, this application has been filed by petitioner for sending of sale deed Ex.B.2 dt.19.01.1978 to a hand-writing and finger printing expert for comparison of her signatures and thumb impressions.

17. In my opinion, the said application has been filed at a belated stage, that too, one year after the evidence of defendants was closed and the matter was posted for arguments. Merely because the petitioner had changed her Advocate and she is a Senior Citizen, that does not

give her any right to file the said application at this stage to send the said document to an expert for comparison of signature and thumb impression thereon with the signatures and thumb impressions obtained from her in the Court. Obviously, this application has been filed only to drag on and to delay the proceedings in the suit. Therefore, the Court below is right in dismissing the said I.A.No.572 of 2014. Therefore, I do not find any merit in the Revision and it is accordingly dismissed. No order as to costs.

18. Miscellaneous applications, pending if any in this Revision, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 08-07-2015

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