

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELENGANA AND THE STATE OF
ANDHARA PRADESH

C.R.P.No.947 of 2015

Between:

Yandapalli Subbayamma

.....Petitioner

and

Varanasi Veeranjanyulu

.....Respondent

Date of Judgment pronounced : 03-08-2015

SUBMITTED FOR APPROVAL:

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

1. Whether Reporters of Local newspapers : Yes/No
May be allowed to see the judgments?
2. Whether the copies of judgment may be marked :
Yes/No
to Law Reporters/Journals:
3. Whether The Lordship wishes to see the fair copy : Yes/No
Of the Judgment?

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

C.R.P.No.947 of 2015

ORDER:

Heard Sri M.Rajamalla Reddy, learned counsel for the

petitioner and Sri Raja Reddy Koneti, learned counsel for respondent.

2. This Revision Petition is filed challenging the Order dt.23-02-2015 in I.A.No.584 of 2014 in O.S.No.40 of 2010 of the Principal Junior Civil Judge, Gurazala.

3. Petitioner herein is the defendant in the suit. Respondent/plaintiff filed a suit for specific performance of agreement of sale dt.09-07-1996 allegedly executed by the petitioner in his favour.

4. Petitioner filed Written Statement contending that the said agreement of sale is a forgery.

5. Trial commenced. Evidence on the side of the respondent was concluded and the matter was posted to 25-09-2014 to enable the petitioner to lead evidence on her behalf.

6. At that stage, the petitioner filed I.A.No.584 of 2014 under Order 8 rule 1-A (3) CPC to receive the following documents:

- i) Certified copy of application filed by the plaintiff herein in A.T.C. No.1 of 2006, on the file of Hon'ble Court.
- ii) Certified copy of counter filed by the respondent Nos.5 and 6 in A.T.C. No.1 of 2006, on the file of Hon'ble Court.
- iii) Certified copy of deposition of P.W.1 (plaintiff

herein) in A.T.C. No.1 of 2006, on the file of Hon'ble Court.

- iv) Certified copy of deposition of R.W.1 viz., Tangeda Basavaraju in A.T.C. No.1 of 2006, on the file of Hon'ble Court.
- v) Certified copy of docket order in A.T.C. No.1 of 2006, on the file of Hon'ble Court.
- vi) Certified copy of plaint in O.S.No.338 of 2006 on the file of Hon'ble Court.
- vii) Certified copy of Written Statement of defendant No.1 in O.S.No.338 of 2006, on the file of Hon'ble Court.
- viii) Certified copy of judgment in O.S.No.338 of 2006, on the file of Hon'ble Court.

7. She contended that she came to know about these documents only recently and had no information about the same at the time of filing of the Written Statement. She contended that these documents are relevant inasmuch as they indicate that the respondent is only a perpetual tenant of land in Sy. Nos.182/2 and 183 of Gangavaram revenue village and the respondent had shown the petitioner as only a neighbouring land owner on the eastern side of the property. She also contended that the documents indicate that another suit was filed against the respondent and this also throws light on the issues involved in the present suit.

8. Counter affidavit was filed by the respondent opposing this application contending that the

documents sought to be filed are irrelevant and the application has been filed only to drag on the matter at a belated stage.

9. By order dt.23-02-2015, the Court below dismissed the said I.A. It held that the petitioner had not given proper explanation for the delay in filing the documents. It also expressed a view that the documents sought to be filed by the petitioner might not be relevant since they belong to the year 2006 while the suit is of the year 2010.

10. Challenging the same, this Revision Petition is filed.

11. Learned counsel for the petitioner contended that while deciding the application under Order 8 rule 1-A (3) CPC, the Court has only got to see whether proper explanation has been given by the petitioner for the delay in filing documents; and at that stage, the Court cannot consider the relevancy or admissibility of the documents sought to be filed. He further contended that the petitioner was not a party to the litigation referred to in the documents sought to be filed; therefore she was not aware of it and she came to know about it after filing of the Written Statement long afterwards; therefore proper explanation has been given by her for not filing the documents earlier and the Court below ought to have accepted it.

12. Learned counsel for the respondent however, refuted the said contention. He contended that the documents sought to be filed are totally irrelevant and have no connection at all with the subject matter of the suit and therefore the application was rightly rejected by the Court below.

13. Order 8 Rule 1-A CPC states:

Order VIII Rule 1A - Duty of defendant to produce documents upon which relief is claimed or relied upon by him

(1) Where 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 enter such document in a list, and shall produce it in Court when the written statement is presented by him and shall, at the same time, deliver the document and a copy thereof, to be filed with the written statement.

(2)

²*[(3) A document which ought to be produced in Court by the defendant under this rule, 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.]*

(4)"

14. In my considered opinion, while deciding the application filed by the defendant to receive documents which were not filed along with the Written Statement, the only question for the Court to consider is whether proper explanation for delay in filing the documents has been furnished by the defendant. In my considered opinion, the affidavit filed by the petitioner in I.A.No.584 of 2014 does disclose such explanation. It is not the case of the

respondent that the petitioner was a party to the proceedings referred to in the documents sought to be filed by her and was therefore aware of them at the time when the Written Statement was filed.

15. I am also of the opinion that at the stage of considering the application under Order 8 Rule 1-A CPC, the Court has only to see whether there is proper explanation from the defendant for not filing the documents along with the Written Statement and the relevancy and admissibility of the documents sought to be filed by her cannot be gone into at this stage.

16. Therefore in my opinion, the Court below has erred in dismissing the I.A.No.584 of 2014.

17. Accordingly, the Civil Revision Petition is allowed and the order dt.23-02-2015 in I.A.No.584 of 2014 in O.S.No.40 of 2010 of the Principal Junior Civil Judge, Gurazala is set aside and the said I.A. is allowed. However, it is made clear that any objections that may be raised by the respondent with regard to the relevancy and admissibility of the documents shall be considered by the Court below at the time when the petitioner seeks to mark the documents in question in her evidence. No costs.

18. As a sequel, the miscellaneous petitions pending, if any, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 03-08-2015

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