

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

CIVIL REVISION PETITION NO. 134 OF 2015

**ORDER:**

This Revision is filed challenging the order dated 12.12.2014 in I.A.No. 901 of 2014 in O.S.No. 627 of 2009 of the I Additional Junior Civil Judge, Chittoor.

2. Petitioner herein is the plaintiff in the suit. She filed the suit for perpetual injunction against the respondents to restrain them from interfering with her peaceful possession and enjoyment of the plaint schedule property. Written statement was filed by the second respondent on 19.04.2010 opposing the suit claim. Trial commenced. Seven witnesses were examined on behalf of the petitioner. Evidence of the petitioner was closed. At that stage, the respondents filed I.A.No. 901 of 2014 under Order 8 Rule 1 (3) CPC to permit them to file eight documents, they are:

*"(1) Original agreement of sale dt. 01.03.1999 executed by the plaintiff in favour of 2<sup>nd</sup> defendant.*

*(2) Original sale deed dt. 19.12.1999 executed by plaintiff in favour of 2<sup>nd</sup> defendant.*

*(3) Original agreement of sale dt. 01.10.1998 executed by the plaintiff in favour of Esther wife of 3<sup>rd</sup> defendant.*

*(4) Original sale deed dt. 03.06.2002 executed by plaintiff in favour of Esther wife of 3<sup>rd</sup> defendant.*

*(5) Sanction letter in well bore issued by MPDO Officer, Gudipala in his Roc.No. 693/94-B dt. 03.04.1995 in the name of Rajigan father of 1<sup>st</sup> defendant.*

*(6) Encumbrance certificate No. 3781/1994 obtained by Rajigan father of 1<sup>st</sup> defendant from the office of Sub-Registrar, Chittoor.*

*(7) No. 2 Adangal issued by V.A.O.190 Ramapuram in the name of Rajigan father of 1<sup>st</sup> defendant.*

*(8) Xerox copy of Enjoyment certificate issued by erstwhile MRO Gudipala dt. 19.01.1994 in the name of Rajigan father of the 1<sup>st</sup> defendant."*

3. In the affidavit filed in support of the application, it is stated by the first respondent that these documents were traced out along with certain old papers and that is why they could not file them earlier.

4. Counter affidavit was filed opposing the said application contending that the averment of the first respondent that the documents were recently traced out is false. It was also contended that some of the documents were unregistered and they are inadmissible in evidence.

5. By order dated 12.12.2014, the Court below allowed the said application. Instead of considering whether the reason given by the first respondent as to the delay in filing the documents is a genuine reason or not, it went into the issue whether the documents require registration or not and allowed the application partly with regard to documents mentioned at Serial Nos. 1 to 5 and 7.

6. Challenging the same, this Revision is filed.

7. Counsel for the petitioner/plaintiff contends that the reason given by the first respondent for not filing these documents earlier is not correct; the first three documents are referred to in the written statement filed by the second respondent on 19.4.2010; therefore, this story that these documents were traced out recently, cannot be accepted.

8. Counsel for the respondents on the other hand contended that the documents in question were traced out just prior to the filing of I.A No. 901 of 2014, that they could not be filed earlier and therefore, there is nothing wrong in allowing of the I.A by the Court below.

9. Order VIII Rule 1-A(1) and (3) CPC states:

***“1-A. 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.***

***(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.”***

10. From the above two provisions, it is clear that the defendants have to produce all the documents on the basis of which they rely on evidence at the time of filing of their written statement. If they have not done so, they cannot, without leave of the Court be permitted to file them later. Leave of the Court can only be granted on the basis of pleading by the defendants that they had a valid reason for not filing these documents along with the written statement.

11. Out of the documents now sought to be filed along with I.A.No. 901 of 2014 at least three of the documents particularly those mentioned at Serial Nos. 1 to 3 above have admittedly been referred in the written statement filed by the second defendant on 19.4.2010. This indicates that these documents were available at the time when that written statement was filed. This contradicts the stand of the first respondent that these documents were not in possession of the first respondent or second respondent at the time when the written statement was filed. Even the other documents sought to be filed are documents which appear to have come into existence long prior to filing of the suit. Therefore, it was incumbent that the respondent should have filed them along with written statement and their plea that they were only traced out recently, cannot be accepted. Therefore I am of the opinion that the respondents are not entitled to grant of leave under Order VIII Rule 1A (3) CPC.

12. Coming to the issue as to whether good reason was shown by the respondents for not filing these documents earlier or not, the Court below gave much importance as to whether these documents were registerable or not. In my opinion that consideration is an irrelevant consideration while deciding whether or not to receive documents. Under Order 8 Rule 1A(1) and (3) CPC. Therefore, I am of the opinion that the order dated 12.12.2014 in I.A.No. 901 of 2014 cannot be sustained

13. Accordingly, the Civil Revision Petition is allowed and the order dated 12.12.2014 in

I.A.No. 901 of 2014 in O.S.No. 627 of 2009 of the I Additional Junior Civil Judge, Chittoor, is set aside. There shall be no order as to costs.

14. As a sequel thereto, miscellaneous petitions, pending if any, shall stand dismissed.

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**JUSTICE M.S.RAMACHANDRA RAO**

Date: 16.06.2015  
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