

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

**CRP.No.520 of 2015**

**ORDER :**

This Revision is filed under Article 227 of the Constitution of India, challenging the order dt.31.12.2014 in I.A.No.1142 of 2014 in I.A.No.16 of 2014 in O.S.No.05 of 2014 on the file of Senior Civil Judge, Puttur.

2. The petitioner herein is 1<sup>st</sup> defendant in the suit.
3. The 1<sup>st</sup> respondent/plaintiff filed the above suit for a perpetual injunction restraining petitioner and respondent nos.2 to 4 from interfering with his alleged peaceful possession and enjoyment of the plaint schedule property.
4. He also filed I.A.No.16 of 2014 under Order 39 Rule 1 and 2 C.P.C., seeking a temporary injunction against petitioner and respondent nos.2 to 4, pending disposal of the suit. The said application is pending.
5. The petitioner and respondent nos.2 to 4 filed I.A.No.1142 of 2014 to receive certain documents in I.A.No.16 of 2014 stating that the documents are important to prove their possession; and there was no willful delay in filing the said documents, which had not been filed along with the counter in I.A.No.16 of 2014.
6. The said application was opposed by 1<sup>st</sup>

respondent. He contended that sufficient cause for not filing the said documents within time was not shown by petitioner; that petitioner created the said documents for the purpose of defeating the rights of 1<sup>st</sup> respondent; and the documents which were obtained under the Right to Information Act, 2005, cannot be marked, more particularly, since the said documents did not contain the date of issue.

**7.** By order dt.31.12.2014, the Court below dismissed the said application. It held that sufficient cause for not filing them along with the counter in I.A.No.16 of 2014 was not shown by petitioner; that document nos.1 and 2, which were issued by the Village Revenue Officer, are not admissible without there being counter-signature of the Tahsildar; that the other documents pertain to the year 2005 and they had been issued by a bore well company to petitioner who dug the bore well in 2005; and so they would be in the custody of petitioner by the date of filing of the I.A., but he did not file them along with the petition.

**8.** Challenging the same, the present Revision is filed.

**9.** Heard Sri T.C. Krishnan, counsel for petitioner; and Sri K.V. Subrahmanyam Narusu, counsel for 1<sup>st</sup> respondent.

**10.** The counsel for petitioner contended that the

provisions of Order 8 Rule 1A(3) C.P.C., which deals with filing of documents by a defendant in a suit, had been erroneously applied by the Court below to interlocutory application.

**11.** Although the counsel for 1<sup>st</sup> respondent refuted the said contention, I find considerable force in the contention of counsel for petitioner.

**12.** Order 8 deals with filing of a written statement or counter-claim by defendant and Order 8 Rule 1A deals with duty of the defendant to produce documents in support of his defence in the suit. It cannot be made applicable to an interlocutory application, as was done here by the Court below.

**13.** Moreover, the admissibility of documents sought to be filed by petitioner cannot be gone into while deciding whether or not they shall be received in evidence.

**14.** Therefore, the order dt.31.12.2014 in I.A.No.1142 of 2014 in I.A.No.16 of 2014 in O.S.No.05 of 2014 on the file of Senior Civil Judge, Puttur is set aside. The Civil Revision Petition is allowed, and I.A.No.1142 of 2014 is also allowed. No order as to costs.

**15.** It is however made clear that this Court has not expressed any opinion about the admissibility of documents sought to be relied upon by petitioner, and the said issue may be gone into by the Court while deciding the I.A.

**16.** As a sequel, miscellaneous petitions pending, if any, in this Revision shall stand closed.

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**JUSTICE M.S.RAMACHANDRA RAO**

Date: 25.08.2015

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