

HON'BLE SRI JUSTICE S. RAVI KUMAR

CIVIL REVISION PETITION No.1530 of 2016

ORDER :

This revision is preferred questioning order dated 30.11.2015 in I.A.No.1336 of 2015 in O.S.No.76 of 2010 on the file of Additional Senior Civil Judge, Kadapa.

2. Revision petitioners herein are defendants in the above referred suit, which is filed for refund of advance amount of Rs.4,80,000/- paid under agreement of sale dated 01.03.2007. In that suit defendants filed petition under Order VIII Rule 1(3) of C.P.C. seeking leave of the Court to receive documents filed along with petition by condoning delay. Trial Court dismissed the said petition mainly on the ground that the documents that are filed along with petition are corresponds to land in Sy.No.184/4 of Goturu village in an extent of Ac.3.95 cents and this property is not part of the plaint schedule property, therefore, those documents would no way serve the purpose and on that ground dismissed the petition. Aggrieved by the same, present revision is preferred.

3. This Court permitted revision petitioners to take personal notice to respondent through registered post with acknowledgment due and file proof of service and in compliance of the same, advocate for revision petitioners filed memo on 08.07.2016 stating that registered post notice sent to respondent is duly served and postal

acknowledgment card is filed along with memo. In spite of service of notice, respondent neither appeared in person nor through any advocate.

4. Heard advocate for revision petitioners.

5. Advocate for revision petitioners submitted that in the plaint the land in Sy.No.184/4 is clearly referred in para 3 while referring to the lands, but in the schedule due to typographical mistake instead of 184/4, it is typed as 183/4, which is at Sl.No.15 in the list of items referred in the plaint schedule. He further submitted that even in the agreement the very same survey number is referred and as defendants filed certified copies of sale deeds pertaining to that survey number to show that it is not a Government land, but the trial Court by verifying the plaint schedule, which is wrongly typed, recorded a finding that the said survey number is not there in the schedule, therefore, the order of trial Court is erroneous and liable to be set aside.

6. I have perused the material papers including the impugned order, copy of agreement of sale dated 01.03.2007 and copy of plaint. When Sl.No.15 is compared with the details that are referred to in the agreement of sale and also with the body of the plaint, it is clear that Sy.No.184/4 is subject matter of the suit, and it is only a typographical mistake. Defendants produced documents, which are certified copies of sale deeds and trial Court without properly examining the recitals of the

agreement of sale, body of the plaint, simply carried away with the schedule items, which is a typographical error and refused to grant leave to receive those documents. On a scrutiny of the material, trial Court committed error in not looking into the entire plaint averments and the recitals of agreement of sale before recording a finding whether this land in Sy.No.184/4 is subject matter of the suit or not, therefore, the order of trial Court is liable to be set aside.

7. Accordingly, this revision is allowed and impugned order dated 30.11.2015 is set aside and trial Court is directed to receive the documents filed along with I.A.No.1336 of 2015.

8. Miscellaneous petitions pending, if any, shall stand closed. No costs.

S. RAVI KUMAR, J

13th July 2016.

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