

**THE HON'BLE SRI JUSTICE SANJAY KUMAR**

**CIVIL REVISION PETITION No.6088 OF 2016**

**O R D E R**

This civil revision petition under Article 227 of the Constitution is directed against the docket order dated 17.11.2016 passed by the learned Principal Junior Civil Judge, Ranga Reddy District at L.B.Nagar, in I.A.No.930 of 2016 in O.S.No.529 of 2010. The said I.A. was filed by the defendants in the suit under Order 8 Rule 1 CPC to receive the documents filed therewith by condoning the delay, if any, in the interest of justice. By the order under revision, the trial Court allowed the I.A. subject to proof, relevancy and admissibility of the documents, granting liberty to the plaintiff to raise objections at the time of admission of the documents in evidence. Aggrieved thereby, the plaintiff is before this Court.

Heard Sri V.Hariharan, learned counsel for the petitioner/plaintiff and Sri Pramod Kumar Kedia, learned counsel for the respondents/defendants.

Parties shall hereinafter be referred to as arrayed in the suit.

Perusal of the affidavit filed in support of the I.A. before the trial Court reflects that defendant 2, the deponent therein, stated that the subject documents could not be filed at the time of filing of the written statement, as some of them were misplaced with other papers and as such, could not be filed within time. He further stated that the documents were recently traced out and were therefore being filed by way of the subject I.A. The plaintiff contested the I.A. by filing a counter, wherein he stated that the documents were sought to be filed belatedly and that the defendants failed to file the same at the appropriate time. He further pointed out that the petition had been

filed in a casual manner without assigning proper reasons for not producing the documents all these days. He therefore prayed for dismissal of the I.A.

O.S.No.529 of 2010 was filed by the plaintiff for a perpetual injunction restraining the defendants from interfering with his peaceful possession and enjoyment of the suit schedule property, an extent of Ac.1.00 guntas in Sy.No.549 of Uppal Khalsa and Mandal, Ranga Reddy District. Defendant 2 filed a written statement in the suit referring to various documents in support of his defence, including the registered sale deeds under which the defendants allegedly claimed title. However, there is no indication of any of these documents having been filed along with the written statement. The material placed before this Court does not indicate the details of the documents which were sought to be filed by way of the subject I.A. The order under revision also does not detail the various documents now accepted on record subject to proof, relevancy and admissibility.

In this regard, it would be pertinent to note that Order 8 Rule 1A CPC mandates that where the defendant bases his defence upon a document or relies upon any document in support of his defence, he shall enter such document in a list and produce it in Court when the written statement is presented by him. Sub-rule (2) thereof states that where any such document is not in the possession or power of the defendant, he shall, wherever possible, state in whose possession or power it is. Sub-rule (3) is crucial for the purposes of this case and ordains to the effect that a document, which ought to have been produced by the defendant at the time of filing the written statement, shall not be received in evidence on his behalf without the leave of the Court.

At the stage of receiving documents belatedly by granting leave under Order 8 Rule 1A(3) CPC, the trial Court is not expected to go into the contents or merits of the documents sought to be filed or their proof, relevancy or admissibility. All that is required at this stage is for the trial Court to ascertain whether sufficient cause is made out by the defendant to grant leave to file the said document(s) with delay, overlooking his failure in filing the same along with the written statement.

Perusal of the order under revision however demonstrates that the trial Court completely lost sight of what was required of it while considering the subject I.A. To begin with, the subject I.A. was filed under the wrong provision as it was not under Order 8 Rule 1A(3) CPC that it was filed but under Order 8 Rule 1 CPC read with Section 151 CPC. The trial Court merely considered the objections raised by the plaintiff without even examining as to whether the defendants demonstrated sufficient cause for their failure in not filing the documents along with their written statement and explained the delay on their part in coming up with the subject petition. The trial Court therefore completely misdirected itself in dealing with the subject I.A. The order under revision is accordingly set aside on this short ground and the matter is remitted to the trial Court for consideration afresh of the I.A. in accordance with law.

The Civil Revision Petition is allowed to the extent indicated above. Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

---

**SANJAY KUMAR, J**

**30<sup>th</sup> DECEMBER, 2016**

PGS