

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

CIVIL REVISION PETITION No.4455 of 2015

ORDER:

This Civil Revision Petition, under Article 227 of the Constitution of India, by the unsuccessful plaintiff, is directed against the order dated 04.08.2015 of the learned Senior Civil Judge, Yellamanchili passed in I.A.No.229 of 2015 in O.S.No.33 of 2009 filed under Order VII Rule 14(3) of the Code of Civil Procedure, 1908 requesting to grant leave to file the petition listed document viz., certificate dated 30.06.2014 issued by the Village Revenue Officer, Thimmapuram, S.Rayavaram Mandal.

2. I have heard the submissions of the learned counsel for the revision petitioner/plaintiff. Though notices are served on respondents 1 and 2, none appears. The respondents 3 to 9 are stated to be not necessary parties in this Civil Revision Petition since they had remained *ex parte* in the suit. I have perused the material record.

3. The facts which are necessary for consideration, in brief, are as follows:-

The sole plaintiff brought the suit against the respondents for cancellation of the sale certificate dated 17.06.2008 issued by the 2nd defendant in E.P.No.130 of 2003 in O.S.No.97 of 2001 on the file of the Court of Principal Junior Civil Judge, Yellamanchili and for setting aside the sale held on 14.07.2006 at the instance of the first defendant and for consequential relief of delivery of possession of plaint 'A' schedule property, which is a part and parcel of plaint 'C' schedule property of the present suit. The defendants are resisting the suit. At the stage of trial, the present application is filed by the plaintiff for receiving on file the aforementioned document after granting necessary leave. That application was resisted by the contesting defendants contending that the reasons stated in the affidavit filed in support of the said petition are not correct and are created and that the petitioner is intending to drag on the proceedings and harass the said defendants.

4. On the other hand, the case of the plaintiff, in support of the request for receiving the said documents on file, is that the certificate was issued by the Village Revenue Officer evidencing the fact that the plaintiff and his father are having a house as mentioned in the said certificate and that therefore, the said certificate is necessary to prove the case of the plaintiff and that the said document could not be filed earlier as it was issued recently by the Village Revenue Officer and hence, there is no negligence, either willful or wanton, on the part of the plaintiff in not filing the said document earlier. The trial Court dismissed the application mainly on the ground that the said certificate was obtained after filing the suit and therefore, it has no probative value. Feeling aggrieved of the same, the plaintiff is before this Court as petitioner.

5. The learned counsel for the revision petitioner/plaintiff would submit that at the time of considering the merits of the application for granting leave and permitting to file documents, the Court has to consider only the requirement as to whether or not any case is made out for granting leave, but shall not go into the question of probative value of the document sought to be filed, as the stage of appreciation of evidence comes at a later stage. It is trite to note that whenever leave sought for is granted and further documents are permitted to be filed during the course of trial, the said documents would generally/normally be received on file subject to proof, admissibility and relevancy; and the said three aspects would come up for consideration at a later stage, that is at a stage when a witness tenders the documents in evidence for being exhibited; further, most of the times, the considerations like proof or disproof and the probative value of the documents would be relegated to a further later stage, i.e., the stage of evaluation and appreciation of evidence and adjudication of the issues involved in the *lis*.

6. Having regard to the submission, this Court finds that there is acceptable merit in the Civil Revision Petition and that the impugned order calls for interference.

7. In the result, the Civil Revision Petition is allowed and the impugned

order is set aside. Consequently, the I.A.No.229 of 2015 in O.S.No.33 of 2009 is allowed and the document viz., Certificate dated 30.06.2014 issued by the Village Revenue Officer, Thimmapuram, S.Rayavaram Mandal is received on file, subject to proof, admissibility and relevancy.

There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this revision shall stand closed.

26th February, 2016
Bvv

M.Seetharama Murti, J