

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

CIVIL REVISION PETITION No.4398 OF 2015

ORDER:

The petitioner is the plaintiff in O.S.No.28 of 2014 on the file of the Senior Civil Judge, Shadnagar. The said suit was filed for partition and separate possession of the plaintiff's share. The petitioner filed an application in I.A.No.388 of 2015 seeking permission of the Court to receive certain documents and for marking the same. The said application was filed after one year of filing of the suit.

2. A counter was filed by the respondents stating that the documents were obtained in the year 2009 itself and challenging those documents, W.P.No.18221 of 2009 was filed in the High Court and as such, they cannot be looked into for any purpose.

3. The trial Court dismissed the application filed by the petitioner with the following observations:

"The petitioner has filed two documents i.e., orders of Joint Collector in Case No.D1/6145 of 08 and CC of ROR. It can be seen from the stamp affixed on the documents i.e., orders of Joint Collector and ROR that the certified copies delivered on 11.8.2009 and 17.1.2009 respectively. Thus the petitioner has obtained the certified copies of documents in the year 2009 itself. There is no whisper in the petition why the petitioner did not file the documents from 2009 to 2015. There is no specific plea in the petition that the petition list mentioned documents were misplaced. The petitioner has not also pleaded that

despite his due diligence, the documents could not be traced. He has also not stated as to when the documents were obtained. Thus absolutely there are no valid reasons assigned by the petitioner to accord leave. Hence there are no merits in the petition. Hence the petitioner is not entitled for petition relief.”

4. The trial Court failed to see that the suit is of the year 2014 and the trial has not yet commenced. Mere receipt of the documents does not mean that those documents can be marked or the defendants are prohibited from raising objections with regard to the proof or relevancy. That is only an application seeking permission to receive the documents. Since the suit is of the year 2014, this Court is inclined to allow I.A.No.388 of 2015.

5. Accordingly, the Civil Revision Petition is allowed setting aside the impugned order, dated 14.9.2015, and the documents can be received, but it is open to the trial Court and the defendants to raise objection with regard to marking of those documents on proof and relevancy at appropriate point of time. There shall be no order as to costs.

6. Miscellaneous Petitions pending, if any, in this Civil Revision Petition shall stand closed.

JUSTICE A.RAMALINGESWARA RAO

Date: 12.2.2016

AMD

-

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-

-
-
-

CIVIL REVISION PETITION No.4398 OF 2015

-

DATE: 12.2.2016

AMD