

THE HON'BLE SRI JUSTICE A.V. SESA SAI
CIVIL REVISION PETITION Nos.2517 and 2518 of 2016

COMMON ORDER:

Since these two revisions are inter-related, this Court deems it apposite to dispose of these revisions by way of this common order.

The defendant in O.S.No.41 of 2010 on the file of the Senior Civil Judge, Hindupur is the petitioner in these revisions. In C.R.P.No.2517 of 2016 and C.R.P.No.2518 of 2016 challenge is to the orders, dated 28-04-2016 passed by the Senior Civil Judge, Hindupur in I.A.No.134 of 2016 and I.A.No.152 of 2016 in O.S.No.41 of 2010 respectively.

The respondent herein instituted O.S.No.41 of 2010 for recovery of an amount based on agreement of sale. In the said suit the defendant/petitioner herein filed the present Interlocutory Applications. Petitioner herein filed I.A.No.134 of 2016 under the provisions of Order 8 Rule 1-A and Section 151 of Code of Civil Procedure, praying for permission of the Court to produce certain documents as mentioned in the petition for marking of the same. I.A.No.152 of 2016 was filed under Section 151 of Code of Civil Procedure, praying to reopen the suit for defendant's side evidence. The said applications were contested by the plaintiff by way of filing counters.

The learned Senior Civil Judge, Hindupur by way an order, dated 28-04-2016 dismissed I.A.No.134 of 2016 and in consequence of the same also dismissed I.A.No.152 of 2016 on

the even date. The said orders passed by the learned Senior Civil Judge, Hindupur are under challenge in the present Civil Revision Petitions.

Heard, Sri P. Narahari Babu, learned counsel for the petitioner and Sri N. Aswartha Narayana, learned counsel for the respondent, apart from perusing the material available before this Court.

It is submitted by learned counsel for the petitioner that the orders passed by the learned Senior Civil Judge are erroneous, contrary to law and opposed to the very spirit and object of provisions of Order 8 Rule 1-A Code of Civil Procedure. It is further submitted by learned counsel that the Court below fell in error in dismissing the applications on the ground of delay as the petitioner herein filed the applications before the closure of evidence. It is the further submission of learned counsel that in the event of allowing the applications the respondent herein would not be put to any prejudice. It is also submitted by learned counsel that the documents sought to be produced are crucial for proving the case of the defendant/petitioner herein.

On the contrary, it is contended by learned counsel for the respondent that there is absolutely no illegality nor there exists any procedural infirmity in the impugned orders and the learned Senior Civil Judge, Hindupur is perfectly justified in dismissing the applications as the petitioner herein did not assign any proper and sufficient reasons for non-production of documents at the earliest point of time as per Order 8 Rule 1-A of Code of Civil Procedure. It is also submitted by learned counsel for the respondent that the

documents sought to be pressed into service are not relevant to the case of the petitioner.

In the affidavit filed in support of the application filed under Order 8 Rule 1-A of Code of Civil Procedure, the petitioner herein stated that the proposed documents were misplaced in her house and could be traced out only a day before filing of applications, as such, the documents could not be produced earlier. In the said affidavit the petitioner herein also stated that the proposed documents are very essential to prove her case. The respondent herein filed counters, denying the averments made in the affidavits filed in support of the applications.

According to the learned counsel for the petitioner, the documents sought to be pressed into service by way of present application are very much crucial and they clinchingly establish the defence taken by the defendant/ petitioner herein in the written statement. While saying so, the learned counsel has invited the attention of this Court to the contents of paragraph No.8 of the written statement, wherein it is stated that because of the failure of the plaintiff the defendant was constrained to borrow Rs.3,00,000/- with interest at the rate of 36% per annum from one Raju and Rs.60,000/- with interest at the rate of 36% per annum from one Venkatesh for the marriage expenses of her first daughter and now due to default of the plaintiff, the defendant is forced to pay the interest on the said amounts and the said persons are demanding the defendant to discharge the debts.

As evident from the material available before this Court, the documents now sought to be pressed into service are deaf and

dumb certificates of husband and daughter of the defendant and wedding invitation and wedding photos of the daughter of defendant. In the considered opinion of this Court, the said documents now sought to be pressed into service would not help the defendant to prove her defence in the written statement.

A perusal of the orders under challenge candidly disclose that the learned Judge considered the entire material available on record including the aspect of delay on the part of the defendant in producing the documents and dismissed the applications. It is settled and well established proposition of law that unless the orders impugned suffer from patent perversity, the jurisdiction of this Court under Article 227 of the Constitution of India cannot be permitted to be invoked. This Court finds no infirmity in the impugned orders which warrant interference of this Court under Article 227 of the Constitution of India.

For the aforesaid reasons, the Civil Revision Petitions are dismissed There shall be no order as to costs.

The Miscellaneous Petitions, if any, pending in these Civil Revision Petitions shall stand closed.

A.V. SESA SAI, J

August 19, 2016

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THE HON'BLE SRI JUSTICE A.V. SESA SAI

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