

THE HON'BLE SRI JUSTICE SANJAY KUMAR

CIVIL REVISION PETITION No.5533 of 2016

ORDER:

This civil revision petition under Article 227 of the Constitution arises out of the order dated 30.08.2016 passed by the learned Special Sessions Judge for Trial of Cases under Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989-cum-VII Additional District and Sessions Judge, Ranga Reddy District at L.B.Nagar, in I.A.No.729 of 2016 in O.S.No.1566 of 2014.

The said I.A. was filed by the defendants in the suit under Order XI Rule 14 C.P.C. seeking a direction to the plaintiffs to produce three documents – (i) original Memorandum of Understanding (MOU) dated 02.09.2014 (ii) original Agreement of Sale dated 01.01.2014 and (iii) original undated cheque bearing No.579572 for Rs.15,00,000/-. By the order under revision, the trial Court accepted the plea of the plaintiffs that they were not in possession of these documents and accordingly dismissed the I.A. Aggrieved thereby, the defendants are before this Court.

Heard Sri P. James, learned counsel for the petitioners/defendants, and Sri K. Shankaraiah, learned counsel for the respondents/plaintiffs.

O.S.No.1566 of 2014 was filed by the respondents/plaintiffs for recovery of a sum of Rs.28,62,000/- along with future interest and costs. The subject I.A. was filed by the petitioners/defendants stating that the hand loan given by the plaintiffs to the first defendant was only of a sum of Rs.10,00,000/- and with interest thereon, a sum of Rs.15,00,000/- would be payable as on date. They further contended that the respondents/plaintiffs got executed a MOU on 02.09.2014 and a hand loan agreement on 03.09.2014 under coercion and also procured three cheques from them by force. By way of the subject application, they asked for production of the said MOU dated 02.09.2014 along with an agreement of sale said to have been executed on 01.01.2014 in relation to Plot No.63, Vignan Enclave, Cheeryal Village, Keesara Mandal, Ranga Reddy District. They also asked for production of the original undated cheque bearing No.579572 for Rs.15,00,000/- said to have been given by

them in discharge of their admitted liability. The respondents/plaintiffs filed a counter denying that they have possession of these documents.

According to Sri K. Shankaraiah, learned counsel, the suit claim is based on the hand loan agreement dated 03.09.2014 and his clients do not have the custody of any original MOU dated 02.09.2014. Learned counsel would state that the said undated cheque was not handed over to his clients and that they categorically deny receipt thereof.

Sri James, learned counsel, fairly stated before this Court that his clients are interested only in the production of the original MOU dated 02.09.2014 at this stage. The consideration in this civil revision petition is accordingly restricted only to this document. Admittedly, there is no evidence available with the petitioners/defendants that the custody of the alleged MOU is with the respondents/plaintiffs. Though Sri James, learned counsel, placed before this Court a colour photocopy of the said document and would assert that the signatures therein clearly disclose that the respondents/plaintiffs were parties thereto, this Court cannot go into the genuineness of this document.

As matters stand, there is no evidence that this document, if it exists, is in the custody of the respondents/plaintiffs. Without establishing this fact, the petitioners/defendants cannot seek a direction under Order 11 Rule 14 C.P.C. for production thereof from their possession. The order under revision holding to this effect warrants no interference and is accordingly confirmed. It is however made clear that it is for the petitioners/defendants to take appropriate measures in relation to this document in accordance with law as they deem fit.

Subject to the above liberty, the civil revision petition is dismissed.

Pending miscellaneous petitions, if any, shall also stand dismissed.
No order as to costs.

JUSTICE SANJAY KUMAR

Date: 16.12.2016

GJ