

HON'BLE SRI JUSTICE S. RAVI KUMAR

CIVIL REVISION PETITION No.5624 of 2015

ORDER :

This revision is preferred questioning order dated 17.11.2015 in I.A.No.1144 of 2015 in O.S.No.659 of 2006 on the file of Principal Junior Civil Judge, Sangareddy.

2. Revision petitioner herein is defendant No.7 in O.S.No.659 of 2006, who is impleaded as a party as per orders in I.A.No.901 of 2010. Revision petitioner herein after impleading herself as defendant No.7 filed written statement on 03.01.2012 and along with the written statement she filed three documents, which are Xerox copies, in support of her plea in the written statement. Now, at the time of evidence, revision petitioner herein filed the above referred application under Order VIII Rule 1 C.P.C. seeking permission to receive six documents and mark them as Exs.B.1 to B.6 on her side. Out of these six documents, three are the originals of the documents that were referred to in written statement dated 03.01.2012. This application was dismissed by the trial Court holding that petitioner herein has not assigned any reason, much less any valid reason for not filing these documents along with the written statement. Now, aggrieved by the dismissal of the application, present revision is preferred.

3. Heard arguments.

4. Learned advocate for revision petitioner submitted

that out of these six documents, copies of three documents are filed along with written statement, but as the originals are not available at that time, they could not be filed and no prejudice will be caused to the opposite party on account of receiving these documents on behalf of revision petitioner. He further submitted that an opportunity ought to have been given to petitioner but trial Court dismissed the application on technicalities, therefore, the order of the trial Court is incorrect. In support of his arguments, he placed reliance on the judgment of this Court in **M.R.Anjaneyulu v. R.Subramanyam Achary**^[1].

5. On the other hand, advocate for respondent Nos.1 to 4 supported the order of trial Court and submitted that no reasons are given in the affidavit filed in support of application and trial Court was right in dismissing the application, therefore, there are no grounds to interfere in exercise of Revisional jurisdiction.

6. Now the point that would arise for my consideration in this appeal is

Whether the order in I.A.No.1144 of 2015 in O.S.No.659 of 2006 on the file of Principal Junior Civil Judge, Sangareddy at Medak, is legal, proper and correct?

-

POINT :

7. As seen from the material, petitioner herein was added as defendant No.7 on the application filed by

plaintiffs since defendant No.7 purchased part of the property involved in the suit. Petitioner herein filed her affidavit in support of the application and in the affidavit what all she stated with regard to these documents is as follows:

“I submit that I am filing Exhibit B-1 to B-6, at the time of written statement I was not filed before this Hon’ble court. The said documents are necessary and material evidence to proof of the case. If the Hon’ble court not receive the said documents I will be put to irreparable loss and great injury, which cannot be compensated with any manner”

8. From a reading of the above, it is clear that nothing is stated in the affidavit as to why these documents could not be filed along with written statement. Though advocate for revision petitioner submitted that as the originals were not available at the time of filing of written statement, in respect of which xerox copies are filed along with written statement, even that reason is not averred in the affidavit filed in support of the application. The affidavit is very vague and drafted very casually and trial Court has rightly discarded such affidavit.

9. This Court observed in the above referred decision that ‘no hard and fast principles can be laid down for the Courts as to how this discretion has to be exercised. While exercising such discretion, the Courts will have to consider relevant aspects such as the conduct of the

parties, the nature of the documents that are sought to be filed and whether by permitting filing such documents, the same will help the Court to adjudicate the suit in more effective manner'. In that case, trial Court dismissed the application filed Order VIII Rule 1A(3) C.P.C. to receive documents and in the affidavit filed in support of that petition, the deponent therein stated that sale deed dated 26.12.1994, which was filed along with the application was not filed earlier due to oversight and requested the Court to receive that document. The Court below has not accepted that reason and dismissed the application and in those circumstances this Court observed that there is no hard and fast rule in respect of discretion and liberal approach is to be adopted. But, in our case, petitioner herein has not assigned any reason leave alone sufficient reason, therefore that decision has no application to the facts of this case. On a scrutiny of the material, I am of the considered view that trial Court was right in dismissing the application and there is no illegality or jurisdictional error committed by trial Court to be interfered by this Court.

10. For these reasons, revision is dismissed as devoid of merits.

11. Miscellaneous petitions pending, if any, shall stand closed. No costs.

S. RAVI KUMAR, J

12th February 2016.

mar

[\[1\]](#) 2012 (5) ALD 243