

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

CIVIL REVISION PETITION No. 4468 of 2014

ORDER:

The petitioner is the plaintiff in O.S.No.28 of 2010 on the file of Senior Civil Judge, Piler, Chittor District. The said suit was filed for partition and separation possession of plaintiff's share. Before commencement of trial, the petitioner filed I.A.No.531 of 2014 seeking permission of the Court to file a document dt. 02.09.14, which is a Registered Holding of Records in favour of T. Nagi Reddy, who is the grand father of the plaintiff and defendants.

In the affidavit filed in support of the application it is stated that the said document is in the custody of the defendants, who got the same through the father of the plaintiff, and the plaintiff wanted to file the said document.

A counter was filed to the said application stating that defendant Nos. 1 and 2 and their father Chinna Rami Reddy divided their joint family properties about 14 years prior to filing of the suit and were living separately. Though the petitioner filed the suit in the year 2010, she did not file any document in respect of plaint schedule property along with the plaint and the application filed was at a belated stage.

The application of the petitioner was dismissed on the ground that sufficient cause was not shown by her for not filing the document along with the plaint. The observation of the trial Court in para No.11 is as follows:

“ the above said provision of law is obvious that document filed into Court after commencement of trial cannot be received without showing any sufficient cause by the petitioner and leave cannot be granted to the petitioner to introduce the document after commencement of trial on mere asking. Perused the suit docket and suit is filed in the year 2010, issues are settled on 01.02.2011, since then suit went on several adjournments and finally when the matter is coming up for cross examination of PW.1, she filed the present application to receive document which is opposed by the respondent. Perused the document

filed by the petitioner along with the petition and it vividly manifest that it is a copy of the public document obtained by the petitioner on 02.09.2014. The contention of the learned counsel for the petitioner is that the said document was in possession of the respondents and as such the petitioner did not file the said document at the time of filing of the suit. As already discussed above, the said document is a public document and certified copy was issued on 02.09.2014 by the Sub Registrar. When such is the case, the contention of the petitioner that the said document was in possession of the respondents as on the date of the filing of the suit cannot be believed and more over when the said document is a public document and petitioner obtained copy of the same recently, absolutely there was no impediment to the petitioner to obtain the said document at the time of filing of the suit or before commencement of trial. Except the averments in the petition that the said document was in possession of the respondents at the time of filing of the suit, which is false, no sufficient cause is shown by the petitioner as to why she did not obtain the said document earlier and filed into the Court before commencement of trial. Since the petitioner has not shown any sufficient cause for non filing the said document before commencement of trial or at the time of filing of the suit, I do not find any convincing reasons to grant leave to the petitioner to receive the document at bleated stage. Under the said circumstances, the contention of the learned counsel for respondents that this application is filed just to drag on the suit proceedings, cannot be ruled out. Therefore, this point is answered accordingly against the petitioner and in favour of the respondents.

It is submitted by the learned counsel for petitioner that the trial of the suit has not yet commenced and this is a suit for partition.

The plaintiff wanted to produce the document, which related to her as well as the defendants, before commencement of the trial. The trial Court observed that the document, which is sought to be produced, is a public document. In the circumstances, filing of such a petition at this stage by the plaintiff cannot be said to be protracting the trial. Therefore, the Order of the trial Court dt. 6.11.2014 is set aside and I.A.No.531 of 2014 is allowed.

Accordingly, this Civil Revision Petition is allowed. There shall be no order as to costs. As a sequel, miscellaneous petitions, if any, pending in this Civil Revision Petition, shall stand closed.

A.RAMALINGESWARA RAO, J

Date: 08.02.2016

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THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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