

HON'BLE SRI JUSTICE M. SEETHARAMA MURTI

CIVIL REVISION PETITION No.622 of 2016

ORDER:

This civil revision petition, under Article 227 of the Constitution of India, by the unsuccessful respondent/defendant is directed against the orders dated 02.12.2015 of the learned Junior Civil Judge, Madakasira of Ananthapur District, passed in I.A.No.119 of 2015 in O.S.No.1 of 2012 filed by the petitioner/plaintiff under Order VII Rule 14(3) of the Code of Civil Procedure, 1908, requesting to receive the petition listed documents on file after granting necessary leave.

I have heard the submissions of Smt. Akella Padma, learned counsel appearing for petitioner/defendant and Sri Aswartha Narayana, learned counsel appearing for respondent/plaintiff and perused the material record.

The parties in this civil revision petition shall hereinafter be referred to as plaintiff and defendant.

The case of the plaintiff in support of the request for granting leave to file the petition listed documents and receiving the documents on file, in brief, is as follows:— 'He filed the suit against the defendant, who is his brother, for perpetual injunction in respect of the plaint schedule immovable properties. In the plaint he contended, *inter alia*, that in a partition, the plaint schedule properties fell to his share and that thereafter the property was mutated in his name and that he was issued pattadar passbook and title deed book separately in respect of the properties that fell to his share and that similar documents were also given to the other sharers in respect of their respective shares after necessary mutation was made in the revenue records. He recently obtained through *mee-seva*, the copies of I-B registers (three in number) which evidence the said facts; further, there is a Lok Adalat Award passed, on 15.02.2014, by the Mandal Legal Services Committee,

Madakasira, which also evidences the fact that there is a partition earlier between the parties. The said four documents are necessary to be exhibited to substantiate the case of the plaintiff. The suit is coming up for trial. Hence, the present petition is filed to grant leave to file the documents. The delay in filing the documents is neither intentional nor wanton; and if the documents are not received on file, he will be put to hardship.”

Per contra, the case of the defendant in his counter and as per the submissions made before this Court is this: “The basis for the Lok Adalat Award, which the plaintiff now intends to file along with the other documents, is an unregistered partition deed dated 22.01.1998; the said partition deed was never entered into between the parties; the said Award was obtained under collusion; since the unregistered partition deed is inadmissible in evidence, the Award passed by the Lok Adalat on the basis of the said document is also inadmissible and it cannot be received in evidence; there is no mention in the plaint about these documents; failure to make averments in the plaint regarding these documents precludes the plaintiff from filing the documents; the defendant is not a party to the Award and the Award not being inter-parties is inadmissible in evidence. Hence the petition filed by the plaintiff is liable for dismissal, but, the trial Court erroneously allowed the said petition.

The trial Court, on merits and by orders impugned in this revision, overruled the objections in the counter of the defendant and allowed the petition and granted leave to the plaintiff to file the documents, namely, the true copies of I-B Registers [three in number] obtained through *mee-seva* and the copy of the Lok Adalat Award, dated 15.02.2014, by *inter alia* observing to the effect that the probative value of the documents need not be considered at the time of granting leave to file the documents and that the objections, if any, in regard to admissibility

of the documents raised by the defendant would be considered at an appropriate later stage when the documents come to be tendered in evidence and that as it is the contention of the plaintiff that the documents are essential to substantiate his case, the documents can be received as the matter is at the stage of commencement of trial and that no prejudice would be caused to the defendant if the documents are received on file before commencement of the trial.

At the hearing before this Court, learned counsel for the parties reiterated the respective contentions, which are already stated supra, and therefore, there is no need to dilate on the said aspects.

I have bestowed my attention to the facts and given detailed and thoughtful consideration to the submissions.

In a suit for perpetual injunction, the plaintiff, before commencement of trial, filed the instant application for receiving the aforesaid documents on file by granting the necessary leave. So far as the first three documents, which are true copies of the 1-B Registers, obtained through *mee-seva*, there is in fact, no resistance in the counter except stating that there is no reference to these documents in the pleadings. The serious objection of the defendant is only in regard to the Lok Adalat Award. The main objection is that the Award is based on an earlier unregistered partition deed and that since the said unregistered partition deed, which is inadmissible in evidence, is the basis for the Award, the Award itself is inadmissible; further, as the defendant is not a party to the said Award, it cannot be permitted to be marked. In regard to this document also, the same objection that there is no pleading about this document in the plaint, is raised. It is settled law that evidence need not be pleaded. The award is a public document and the other documents are true copies of public record obtained through '*mee seva*' service. In the well considered view of this Court, at the time of considering a

requests to grant necessary leave and receive documents on file, the Court will only consider the aspect of delay in filing the documents and the further short question as to whether or not any case is made out for granting leave; but, the Court will not consider the probative value of the documents filed along with the petition. The petitions to receive documents filed before the commencement of the trial will generally be allowed and the documents will be received on file subject to proof, admissibility and relevancy. Therefore, as rightly held by the trial Court, the contentions with regard to the inadmissibility of the documents and probative value of the documents need not be considered at this stage. Further, the trial Court in its orders, made it very clear that the defendant is at liberty to raise any objections regarding admissibility of documents as and when the documents come to be tendered in evidence. It is settled law that, if the documents are found to be relevant to decide the real issue in the controversy and when the Court feels that interests of justice require that the documents may be received, then the court would receive the documents by exercising the judicious discretion and would consider their effect thereafter at a later appropriate stage. When such is the settled position and when the documents are being sought to be produced before the trial has commenced, normally they would be received and an opportunity would be given to prove them and also to adduce rebuttal evidence, if any; and their relevance and effect would be considered while deciding the issues raised and involved in the *lis*. Under these circumstances, this Court is of the considered view that the trial Court was justified in granting leave to file the said documents and in receiving the documents on file by condoning the delay in filing the same. Viewed thus, this Court finds that the revision is devoid of merit and is liable to be dismissed.

Accordingly, the revision petition is dismissed confirming the order of the trial Court, however, subject to the clarification that the documents are received on file subject to proof, admissibility and relevancy and that therefore the trial Court

shall permit the defendant to raise objections, if any, with regard to the admissibility of the documents as and when the documents are tendered in evidence. It is needless to state, that if any such or other objections are raised, the trial Court shall decide the same either at the stage of marking the documents or at a later appropriate stage, depending upon the nature of the objection/s and the law governing the consideration of such objection/s and pass appropriate speaking orders. It is also made clear that if any objections regarding the admissibility of any document on grounds of requirement of stamp duty and registration are raised, the trial Court, by following the settled legal position, shall decide such objections at the time such document is tendered in evidence and not later. No costs.

Pending miscellaneous applications, if any, shall stand closed.

22nd November 2016
ajr

M. SEETHARAMA MURTI, J

