

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

CIVIL REVISION PETITION No.5142 of 2016

ORDER:

Heard Sri S.Subba Reddy, learned counsel for petitioner.

2. Petitioner is challenging the order dt.15-09-2016 in I.A.No.1264 of 2016 in O.S.No.1 of 2008 of the Senior Civil Judge, Tadepalligudem of West Godavari District.

3. Petitioner is the 6th defendant in the suit filed by 1st respondent for recovery of some of money against petitioner's father.

4. Written statement had been filed by the deceased 1st defendant in the year 2009 denying the plaint averments. Subsequently he died and petitioner and other legal representatives are impleaded. The petitioner herein filed a written statement in 2012.

5. On 30-08-2016, petitioner filed an application under Order VIII Rule 1-A(3) C.P.C. to receive certain documents alleging that these documents were mixed up with other documents and he could not file them earlier.

6. This application was opposed by 1st respondent pointing out that the petitioner was not a layman, that he was educated and employed as Bank Officer, that he filed vakalat and detailed written statement 8 years back but he did not bother to file even the list of documents before the Court till the present application was filed.

It was also contended that the documents in question were not relevant to the suit.

7. By order dt.15-09-2016, the Court below dismissed the said application upholding the plea of 1st respondent that the documents sought to be filed were not relevant to the dispute between the 1st respondent and the deceased 1st defendant.

8. Sri S.Subba Reddy, learned counsel for petitioner seeks to contend that the ground on which the application is dismissed is not correct and the question of relevancy arises only when the documents are received and at the stage of receiving the documents, the said aspect cannot be gone into by the trial Court.

9. It is not in dispute that the grant of leave under Order VIII Rule 1-A(3) C.P.C. for receipt of documents, which were not filed along with written statement, is not automatic for the mere asking and valid reasons must be assigned why the documents were not filed along with written statement.

10. The petitioner himself had filed a separate written statement on 13-10-2012 and he has not chosen even to give a list of documents along with the written statement. The reason given by the petitioner that the documents now sought to be filed along with the I.A. were mixed up with other documents, cannot be believed because if the petitioner had been diligent, he would have ensured that these documents were filed along with his written statement or he would

have at least mentioned them in the list of documents to be filed along with the written statement.

11. I am of the opinion that the Court below had rightly rejected petitioner's application for receipt of documents and that the said order does not warrant any interference by this Court in exercise of its power under Article 227 of the Constitution of India.

12. Therefore the Civil Revision Petition is dismissed at the stage of admission. No costs.

13. As a sequel, the miscellaneous petitions, if any pending, shall stand closed.

Date: 28-10-2016
Vsv/*

JUSTICE M.S.RAMACHANDRA RAO

