

THE HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

CIVIL REVISION PETITION No.4478 of 2016

ORDER:

Heard learned counsel for petitioner, Smt. Nimmagadda Revathi, and learned counsel for the respondents Sri Koppula Gopal, and with their consent this Civil Revision Petition is disposed of at the admission stage.

2. This Civil Revision Petition is filed by the petitioner/plaintiff aggrieved by the order dated 21.07.2016 in I.A.No.10 of 2016 in I.A.No.589 of 2014 in O.S.No.63 of 2014 on the file of IV-Additional District Judge, Kadapa, whereby learned Judge dismissed the application filed by the petitioner/plaintiff under Order 7 Rule 14 (3) read with Section 151 of C.P.C. to condone the delay in filing petition mentioned documents.

3. The petitioner is the plaintiff in O.S.No.63 of 2014 who filed said suit seeking partition of plaint schedule properties. In the said suit, the petitioner filed I.A.No.589 of 2014 seeking interim injunction. While so, the petitioner filed I.A.No.10 of 2016 under Order 7 Rule 14 (3) read with Section 151 of C.P.C. to condone the delay in filing the petition mentioned documents i.e., (1) Certified copy of Settlement Deed, dated 3.3.2009 (2) Certified copy of Complaint and F.I.R. and (3) Certified copy of Charge-sheet, and permit him to produce them in I.A.No.589 of 2014. Explaining delay, petitioner's case was that the petition mentioned documents were relating to C.C.No.150 of 2015 on the file of Special Judicial Magistrate of First Class for Prohibition & Excise Offences, Kadapa; the first document which was the certified copy of Settlement Deed, dated 3.3.2009 was till recently in the custody of the respondents and after filing of criminal case it was seized from the respondents and

filed in the criminal case and thereafter he obtained copy of Settlement Deed; the 2nd & 3rd documents were certified copies which he obtained recently and hence delay.

4. The respondent opposed the said petition and the trial Court dismissed the same firstly, on the observation that the proposed document i.e., Certified copy of Settlement Deed was unregistered and unstamped document and hence not admissible, secondly for the reason that the other two documents i.e., F.I.R. and Charge-sheet were not relevant in temporary injunction petition. Hence the Civil Revision Petition.

5. Learned counsel for the petitioner would urge that the relevancy and admissibility with reference to the laws like Stamp Act, and Registration Act is a question to be considered when the documents are tendered in evidence and the matter before the lower Court was only with regard to condonation of delay and at that stage the trial Court ought not to have dismissed the petition on the assumption that the documents were not admissible and relevant for the purpose of the case. Learned counsel would further submit that at the relevant point of time, the petitioner can convince the Court with regard to relevancy and admissibility of the documents, and therefore an opportunity may be given to the petitioner to produce them by condoning the delay.

6. Per contra, learned counsel for the respondents, while supporting the impugned order, argued that the petitioner failed to submit the probable cause for the delay in producing the documents and further as observed by the trial Court the documents were not relevant and admissible. He strongly contended that the trial Court rightly rejected the application and prayed for dismissal of the Civil Revision Petition.

7. The point for consideration is whether there are on merits in the Civil Revision Petition to allow?

8. The impugned order under Revision is in respect of a petition filed by the petitioner under Order 7 Rule 14 (3) of C.P.C. In that view, the point for consideration before the trial Court was whether the delay in producing petition mentioned documents can be condoned or not in terms of the Order 7 Rule 14 (3) of CPC. The reasons furnished by the petitioner for delay was to the effect that the first document was within the custody of the respondents and the same was seized and produced in criminal case and thereafter petitioner could obtain copy of the Settlement Deed and in that process delay was occurred in filing the document. So far as F.I.R. and Charge-sheet are concerned, they relate to C.C.No.150 of 2015 which was filed subsequent to filing of the suit and therefore there was delay in filing those documents. The impugned order shows that the trial Court has not taken into consideration the delay aspect, but unfortunately went on the premise that the proposed documents were not relevant and admissible, which aspect, as rightly submitted by the learned counsel for the petitioner, would come for inspection when documents are tendered in evidence, but not at the stage of the consideration of the delay. Therefore, I find force in the submission of the learned counsel for the petitioner and hence delay can be condoned. However, so far as admissibility and relevancy of documents is concerned, the same has to be decided by the trial Court when the documents are actually tendered in evidence. At that juncture, the respondents will have every right to oppose them on the ground of admissibility and relevancy.

9. Accordingly, the Civil Revision Petition is allowed by setting aside the impugned order in I.A.No.10 of 2016 in I.A.No.589 of 2014 in

O.S.No.63 of 2014 on the file of IV-Additional District Judge, Kadapa and consequently the delay in filing the petition mentioned documents is condoned and the trial Court is directed to consider the proposed documents and, after satisfying with admissibility and relevancy, mark them as exhibits on behalf of the petitioner. No costs.

Miscellaneous petitions pending, if any, in this Revision shall stand closed.

U.DURGA PRASAD RAO,J

Dt: 07-12-2016
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