

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

CRP.Nos.3702 and 3944 of 2016

COMMON ORDER :

Since both these Revisions arise between the same parties out of the same suits, they are being disposed of by common order.

2. The petitioner in both these Revisions is 3rd respondent in the suit.

3. The 1st respondent / plaintiff filed the suit for a perpetual injunction against petitioner and 2nd respondent and another party alleging that he is in possession and enjoyment of the plaint schedule property.

4. Written statement was filed by petitioner and other defendants.

5. Thereafter, issues were framed, and plaintiff's evidence was being recorded by the Court.

6. In February, 2016, the 1st respondent filed I.A.No.26 of 2016 in O.S.No.170 of 2012 to re-call PW.1 for the purpose of marking certain documents; and I.A.No.27 of 2016 in O.S.No.170 of 2012 to receive certain documents which he claim to have obtained under the Right to Information Act, 2005.

7. By separate common order dt.26.03.2016, the Court below allowed both applications. It observed that the main object of

conducting a trial is to determine real matters in controversy and petitioner would get an opportunity to cross-examine PW.1 with respect to probative value of the document; that natural justice mandates adequate opportunity should be given to a party to prove its case; and no prejudice would be caused to petitioner and other defendants.

8. Challenging the same, the present Revisions are filed.

9. The counsel for petitioner contended that the Court below ought not to have allowed the said applications since no explanation is offered by 1st respondent for not filing the said documents at the time of cross-examination of PW.1; that documents proposed to be filed are not relevant; and the applications have been filed only to fill up the lacunae in the evidence.

10. It is not in dispute that the documents sought to be marked by 1st respondent are documents issued in the year 2015 to him and they were not available with 1st respondent at the time when the suit was filed. According to 1st respondent, these documents are relevant to establish his possession of the subject property and although they were given to his counsel at an earlier point of time, they were misplaced in the counsel's office and traced recently.

11. Admittedly, the evidence of 1st respondent is still in progress in the Court below. It is not as if the 1st respondent's evidence was closed and the evidence on the side of petitioner and other defendants

had commenced and concluded. The documents sought to be filed by 1st respondent have obviously been issued to him under the Right to Information Act, 2005 after the commencement of the suit, that too, three years later.

12. In these circumstances, I am of the opinion that the Court below did not commit any error of jurisdiction in allowing I.A.Nos.26 and 27 of 2016.

13. No prejudice is caused to petitioner if these applications are allowed since the petitioner and other defendants would get an opportunity to cross-examine PW.1 with respect to the probative value of the documents.

14. Therefore, I do not find any error of jurisdiction in the order passed by the Court below warranting interference by this Court under Article 227 of the Constitution of India. Therefore, the Civil Revision Petitions are dismissed. No order as to costs.

15. As a sequel, miscellaneous petitions pending if any in these Civil Revision Petitions, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 27-08-2016

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