

HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

CIVIL REVISION PETITION No. 2988 of 2016

ORDER:

This Civil Revision Petition is filed by the petitioner/plaintiff in O.S.No. 219 of 2015 against order and decree dated 27.4.2016 passed in I.A.No. 109 of 2016 in O.S.No. 219 of 2015 by the learned IV Additional Junior Civil Judge, Kadapa, where under the learned Judge dismissed the application filed by the petitioner/plaintiff under Order 7 Rule 14 CPC to receive certified copy of the decree and judgment passed in O.S.No.343 of 1971 on the file of Principal Junior Civil Judge, Kadapa. The said application was dismissed mainly on the ground that the petitioner/plaintiff did not mention the specific reason in his petition for delay and there were no recitals in the plaint or in his chief affidavit about the suit O.S.No. 343 of 1971. Hence, the instant Civil Revision Petition.

2. Heard learned counsel appearing for petitioner Sri S.S.Bhatt and Sri P. Nagendra Reddy, learned counsel appearing for respondents 1 to 11.

3. At the outset, the reason given by the trial Court for the dismissal of the petition is unsustainable. It is the specific case of the petitioner/plaintiff that the certified copy of the judgment and decree

passed in O.S.No.343 of 1971 on the file of Principal Junior Civil Judge, Kadapa, is required for him to establish his case in the instant suit and he was not a party to the suit in O.S.No. 343 of 1971 and he came to know about the existence of such decree and judgment only after his chief examination in O.S.No. 219 of 2015 was over, and therefore, the said certified copy may be received by the Court. It is not in dispute that the petitioner herein was not a party to the suit O.S.No. 343 of 1971. In such a case, the submission of the petitioner/plaintiff that he came to know about the existence of passing of decree and judgment in O.S.No. 343 of 1971, only after his chief examination was over, can be believed for, had he known about the existence of the decree and judgment in O.S.No. 343 of 1971 long prior to his filing of Suit O.S.No. 219 of 2015 or before his examination in chief, he would have certainly filed the document at the appropriate stage itself, as he would not gain any advantage by hiding such document, which according to him requires for proving his case in the instant suit.

4. Hence, this Court is inclined to set aside the impugned order in I.A.No. 109 of 2016, but, of course, taking into consideration the submission of the learned counsel appearing for the respondents/defendants, that in case the petition is allowed and the

certified copy of the decree and judgment in O.S.No. 343 of 1971 is permitted to be adduced as evidence on behalf of the petitioner/plaintiff, the respondents/defendants may be given an opportunity to cross-examine the plaintiff about the judgment in O.S.No. 343 of 1971.

5. Accordingly, the Civil Revision Petition is allowed by setting aside the order in I.A.No. 109 of 2016 in O.S.No. 219 of 2015 on the file of IV Additional Junior Civil Judge, Kadapa and the trial Court is directed to permit the petitioner/plaintiff to produce the certified copy of decree and judgment in O.S.No. 343 of 1971 on the file of Principal District Munsif, Kadapa, as an exhibit on his behalf and also give an opportunity to the respondents/defendants to cross-examine the plaintiff or the other witness through whom the aforesaid document is sought to be marked. There shall be no order as to costs.

6. As a sequel, miscellaneous applications pending, if any, shall stand closed.

U.DURGA PRASAD RAO, J

Date: 24.10.2016
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