

HON'BLE SRI JUSTICE RAMESH RANGANATHAN

CIVIL REVISION PETITION NOS.113 AND 260 OF 2016

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COMMON ORDER:

The petitioner herein is the plaintiff in O.S. No.1 of 2014. An application was filed by the defendants, under Order 8 Rule 1(3) read with Section 151 of C.P.C, to grant leave to receive the list mentioned documents and to mark them as exhibits on their behalf.

In the affidavit filed in support of the I.A. the respondent-defendant requested the Court to permit them to file some documents which were certified copies and registered extracts of the registered documents and receipts which they claimed were misplaced at the time of filing of the suit. They contended that these documents were necessary for proving their case, and non-filing of the documents was not intentional. This application was opposed by the petitioner herein on the ground that no reason was offered to file the documents at a belated stage, and their claim of having misplaced documents was not genuine.

By the order under revision, the Court below noted that the documents filed by the respondent-defendant were certified copies of registered documents, and the receipts issued by the Co-operative Society; whether these documents were genuine or not could be considered at the time of introduction of the documents into evidence; the validity, admissibility and proof of documents could be considered at the time of adducing evidence; and the reason offered by the petitioner, for non-filing of these documents at the time of filing of the suit, could also be considered at the appropriate stage. The Court below considered it appropriate to receive the documents at the present stage.

Sri M.V. Raja Ram, Learned Counsel for the petitioner, would contend that the claim of the respondents-defendants of having misplaced the documents at the time of filing of the suit is not tenable as certified copies

of the documents were obtained subsequent to the filing of the written statement; under the guise of the present order, the defendant may seek to have these documents marked as exhibits; and it is, therefore, necessary that this Court should interfere with the order under revision.

The apprehension expressed by Sri M.V. Raja Ram, Learned Counsel for the petitioner, is unfounded. By the order under revision the Court has merely received the documents while making it clear that the validity, admissibility and proof of the said documents would be considered at the time of adducing evidence; and the reasons put forth by the petitioner, for non-filing of the documents at the time of filing of the suit, could also be considered at the appropriate stage. Mere receipt of the documents cannot be said to have caused any prejudice to the petitioner herein as the Court below has made it clear that admissibility and proof of the documents, and the justification for not filing the documents along with the written statement, would be considered later. The discretion exercised by the Court below to receive the documents cannot be said to suffer from patent illegality necessitating interference in proceedings under Article 227 of the Constitution of India. Both the revision petitions fail and are, accordingly, dismissed. The miscellaneous petitions pending, if any, shall also stand dismissed. No costs.

RAMESH RANGANATHAN, J

Date: 29.01.2016.

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