

HONOURABLE SRI JUSTICE S.V.BHATT

C.R.P.No.4937 OF 2016

ORDER:

The second defendant in O.S.No.312 of 2010 in the court of II Additional Senior Civil Judge, Nandyal is the revision petitioner.

The petitioner challenges the order dated 8-9-2016 in I.A.No.419 of 2016 refusing permission to file the documents stated in the schedule appended to the petition in I.A.No.419 of 2016.

The first respondent filed O.S.No.312 of 2010 for partition and separate possession of suit schedule properties. On 27-3-2011, the revision petitioner filed written statement and has given details of the documents on which the petitioner is relying upon. The evidence of first respondent is completed. The petitioner, at that stage of the matter, filed I.A.No.419 of 2016 seeking leave of court to receive the documents, the xerox copies of which are already on record. The application was opposed by first respondent and the learned trial judge referred to Order VIII Rule 1A (3) of C.P.C., the procedure to be followed by applicant seeking leave of the court to file documents and observed that the discretion is exercised for reasonable cause namely that in spite of due diligence of applicant, there was no possibility for filing the documents at the earliest possible time and there is no deliberate negligence on the part of the petitioner. On this ground, prayer to receive document is rejected.

Heard Mr. Venkata Reddy, learned counsel for petitioner.

Mr. Venkat Reddy contends that the trial court has not properly appreciated the reason stated in the affidavit filed along with I.A.No.419 of 2016, and has recorded an untenable finding that no reason whatsoever is stated for granting permission to the petitioner herein. He has read out the affidavit filed in I.A.No.419 of 2016, which is to the effect that the registered documents, now sought to be brought on record have been mortgaged by petitioner's son to a nationalized bank, since the loan account is continuing, mortgagee will not return the original, therefore, there has been some delay in filing the documents. Further, no document which is not referred to in the written statement or in the list of documents filed along with the written statement is filed by seeking leave. The Xerox copies of the documents are already filed and copies are served on the respondents as well.

According to him, the trial court in stead of completely taking a narrow view of the circumstances, to further ends of justice and affording opportunity to petitioner ought to have allowed the application at least on terms. The dismissal of application substantially affects the stand taken by the revision petitioner. Therefore, he prays for setting aside the order under revision and further grant permission to file the documents.

The grounds for rejecting prayer to grant permission are already referred. For brevity, I do not refer to these reasons once again.

The affidavit filed by the petitioner has explained the difficulty of petitioner in producing original document. The observation of the learned trial judge that no cause is shown for receiving the document, prima facie, is untenable. The request of petitioner is not to file a document which is neither referred in the written statement nor shown either of documents, the observation of the trial court can be appreciated and accepted.

The petitioner has categorically submitted that xerox copies are already filed and now the prayer is to file registration extracts of these documents and the original pattadar pass books and title deed issued in the year 2012. This court is not in agreement with the reasons recorded by the trial court and secondly having regard to the facts and circumstances of the case, to meet the ends of justice. the order under revision is set aside. I.A. No.419 of 2016 is allowed and the petitioner is granted leave to file the documents stated in the list appended to the petition in I.A.No.419 of 2016.

Accordingly, this C.R.P. is allowed.

As a sequel to the disposal of this petition, the Miscellaneous Petitions, if any, pending, shall stand dismissed.

---

JUSTICE S.V.BHATT

Dated 8-3-2017.

Dvs.

HONOURABLE SRI JUSTICE S.V.BHATT



C.R.P.No.4937 OF 2016

Dated 8-3-2017.

Dvs