

THE HON'BLE SRI JUSTICE M. SEETHARAMA MURTI

CIVIL REVISION PETITION No.4481 of 2017

ORDER:

This Civil Revision Petition, under Article 227 of the Constitution of India, is filed by the unsuccessful petitioner/plaintiff, assailing the docket order, dated 20.07.2017, of the learned Principal Junior Civil Judge, Kalwakurthy, passed in I.A.No.177 of 2017 in O.S.No.109 of 2008.

2. At the stage of admission, I have heard the submissions of *Sri L.Prabhakar Reddy*, learned counsel for the Revision Petitioner/plaintiff (hereinafter, 'plaintiff'). I have perused the material record.

3. In a suit for declaration of title filed by the petitioner/plaintiff against the respondent/defendant, the defendant filed the afore-stated interlocutory application under Order XIII Rule 8 read with Section 151 of the Code of Civil Procedure, 1908, requesting to grant leave to file the following documents: "Sale Deed, ROR Proceedings, Certified Copies of the Pahanis for the years 2007 to 2010, passbook, title deed, attested bank authority and the Memo issued by MRO, Kadthal". The plaintiff filed a counter resisting the said application. The trial Court allowed the petition of the defendant, by a cryptic and unreasoned order, which verbatim reads as follows:-

'Even though respondent objected to this petition. As the said documents are public documents and moreover respondent has prerogative it to object the same. As genuinity of the documents can't be look at this stage. Hence, petition is allowed on cost of Rs.100/- to Legal Services Authority.'

Aggrieved thereof, the plaintiff is before this Court.

4. The learned counsel for the Revision Petitioner/plaintiff submits that the documents, viz., pass book and title deed book are only photostat copies and they are not certified copies and that the copies of pahanies, which are filed, are issued by V.R.O., and they are not certified copies and that the V.R.O., is not competent to issue such copies and that certified copies of pahanies issued by a competent public authority can only be admitted in evidence and that one of the contentions of the plaintiff is that the document, namely, the proceedings of the Tahasildar, dated 27.02.2003, is manipulated by incorporating the suit survey number in the said proceedings and that the signature of the Tahasildar in the said proceedings is forged and that the objection with regard to the first document, which is an unregistered sale deed, is with regard to the admissibility on the ground that it is not stamped or insufficiently stamped and that it is also not a registered document and that, therefore, the said and the other documents are inadmissible in evidence. He would further submit that the trial Court simply stated that the documents are public documents, without verifying the documents filed along with the petition by the defendant, and that the trial Court also failed to examine the issue as to whether the photostat copies can be permitted to be filed when a foundation is not laid and permission is not sought for, for adducing secondary evidence by producing the photostat copies instead of the originals or the certified copies. He would next submit that in view of the settled legal position, the trial Court ought to have decided the objection related to the unstamped/insufficiently stamped and unregistered sale deed before proceeding further in the matter as the law mandates that such objection, when raised, shall be decided before proceeding further in

the matter. However, it is apt to note that the objection with regard to sufficiency or otherwise of the stamp duty payable on the document shall be considered as and when an objection is raised at the time of tendering such document in evidence and a decision on the said objection shall be made by the Court before permission is accorded for admitting the document in evidence. It is also incumbent upon the Court below to examine whether any of the documents are photostat copies or true copies, which are inadmissible in evidence; and, it is also for the Court below to examine as to whether a foundation has been laid to produce photostat copies of the documents instead of the originals. He would also point out that the trial Court did not even consider that the provision of law under which the application is filed is also incorrect. He would finally submit that the impugned order of the trial Court which was passed without considering any of the stated and other relevant aspects and which is a cryptic, non-speaking and unreasoned order is unsustainable under facts and in law, and that therefore, the said order, which is unsustainable, in the facts and circumstances of the case, may be set aside and the matter may be remitted to the trial Court for disposal afresh on merits and in accordance with the procedure established by law.

5. As rightly pointed out by the learned counsel for the petitioner/plaintiff, the impugned order is not a speaking order and, therefore, is unsustainable under facts and in law. The learned Judge of the trial Court while passing an order in an interlocutory application of the instant nature is obliged to consider briefly, the contentions urged before the Court and record at least one valid and

correct reason in support of the decision. However, neither the contentions were adverted to and considered nor were reasons, much less valid reasons, assigned in support of the findings recorded in the order. The order does not reflect that the learned Judge of the trial Court looked at the documents filed, before passing the impugned order. While passing the order of the instant nature, it is incumbent upon the learned Judge of the trial Court to briefly advert to the material pleadings, contentions, points involved and the legal position, if any, applicable, and then to record findings supported by reasons on the points involved for determination. Such an order can be brief, no doubt, but cannot be bereft of reasons. Any order shall be in conformity with legal requirements. In such an order, if not all, at least the contentions which merit consideration, shall be mentioned and considered appropriately. It is trite to observe that the need to give reasons has been held to arise out of the need to minimise chances of arbitrariness and induce clarity. Giving reasons, apart from being an essential feature of the principles of natural justice, ensures transparency and fairness, in the decision making process. Reasons are indicative of application of mind and giving reasons is also essential when the order is amenable to further avenues of challenge. Viewed thus, this Court finds that this Revision can be disposed of with appropriate directions.

6. Accordingly, the Civil Revision Petition is allowed and the order, dated 20.07.2017, of the learned Principal Junior Civil Judge, Kalwakurthy, passed in I.A.No.177 of 2017 in O.S.No.109 of 2008, is set aside and the matter is remitted to the Court below for disposal of the said I.A. afresh, in strict accordance with the procedure

established by law. Since it is submitted that after the subject interlocutory petition is allowed, the documents are exhibited, the documents exhibited shall stand eschewed from consideration. Nevertheless, the documents shall be permitted to be marked subject to the decision the trial Court may take in the interlocutory application now remanded for fresh consideration.

There shall be no order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

M.Seetharama Murti, J

06th September, 2017

Note:-

Furnish C.C. by 08.09.2017

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