

HONOURABLE SRI JUSTICE CHALLA KODANDA RAM

C.R.P. Nos. 5643; 5646 and 5649 of 2012

COMMON ORDER:

While Civil Revision Petition No. 5643 of 2012 is filed challenging the order dated 17.09.2012 dismissing I.A.No.1663 of 2012 in O.S.No.709 of 2008, on the file of the learned Principal Junior Civil Judge's Court at Kurnool, filed by the petitioner to recall PW 1 for the purpose of marking registered sale deed dt.20.04.1967 on his behalf; Civil Revision Petition Nos.5646 and 5649 of 2012 are filed challenging the orders dated 17.09.2012, whereby I.A.No.1662 & 1664 of 2012 in the above suit filed for reopening the suit for marking the above registered sale deed and to condone the delay in filing the said document, respectively were dismissed.

Since the issue and the parties involved in all these Civil Revision Petitions are similar in nature, they are heard together and are being disposed of by this common order. The parties as arrayed in C.R.P.No. 5643 of 2012 are referred to hereinafter for the sake of convenience.

Heard the learned counsel for the petitioner.

All these impugned Interlocutory Applications were dismissed by the Court below, as there was no mention about the Registered Sale Deed dated 20.04.1967, executed by Kuruva Venkatagiri Sanjanna S/o Seshanna in favour of the father of respondent, either in the plaint or in the list of documents. It is the specific case of the defendant that the plaintiff in collusion with the brother of the defendant, by name Pedda Mallesh, has created a document of Agreement of Sale Deed and the said

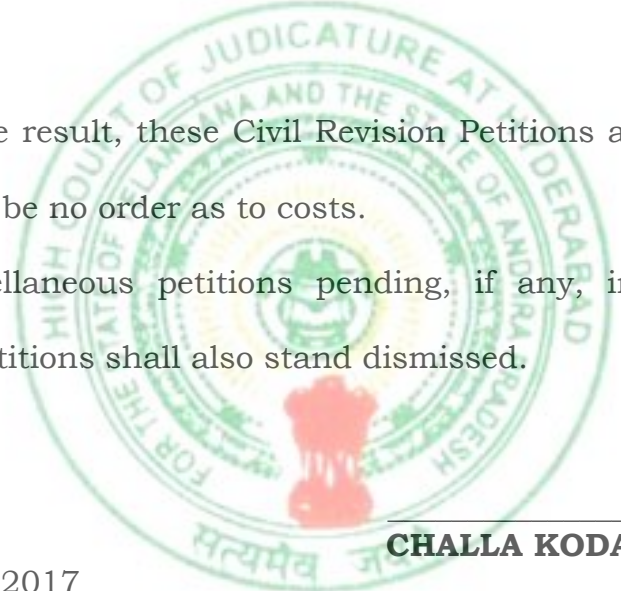
Mallesh might have supplied the document to the petitioner-plaintiff. Further it is contended that the explanation offered by the petitioner in not filing the document along with the plaint or within the reasonable time is that the said document was misplaced and he forgot about the same, which is not at all convincing. Apart from that, Order XVIII Rule 17 of CPC has been considered by this Court. In addition, the case on hand is also required to be considered in terms of Order VII Rule 14 of C.P.C. As per Order VII Rule 14 of C.P.C., except in exceptional circumstances, there is a mandatory duty cast on the parties to the suit to mention the documents, which they seek to rely on, in the annexure; firstly the documents to be filed along with the plaint and in case the same is not available, they shall categorically state in whose possession the same is available and mention it in the list of the documents. Admittedly, about the said sale deed, neither there was a mention in the plaint nor in the list of documents. I.A.No.1663 of 2012 was filed at the stage of arguments to recall P.W.1 for the purpose of marking registered sale deed dated 20.04.1967. The Court had come to the conclusion that filing of the document is not *bona fide* and there are no valid reasons for not filing the said document, apart from that the document, which the petitioner seeks to file is a sale deed, evidencing the title of the suit property in favour of the defendant's father. There is no dispute with respect to the title of the suit property. Even on that ground, in real sense, the document relied on does not help in any manner to resolve the dispute in the suit, i.e., is whether the specific performance is to

be created in favour of the plaintiff or not based on the agreement of sale dated 16.07.1989.

Viewed from any angle, for the purpose of marking the document, the evidence which was closed and the matter which is at the stage of arguments, cannot be reopened. Hence, this Court is of the view that the order of the Court below does not suffer from any illegality, warranting interference under Article 227 of the Constitution of India. Accordingly, C.R.P.No.5643 of 2012 is liable to be dismissed. Likewise, for the same reasons the other C.R.P.Nos.5646 and 5649 of 2012 are also liable to be dismissed.

In the result, these Civil Revision Petitions are dismissed. There shall be no order as to costs.

Miscellaneous petitions pending, if any, in these Civil Revision Petitions shall also stand dismissed.



CHALLA KODANDA RAM, J

Date:22.09.2017
Ssv

HONOURABLE SRI JUSTICE CHALLA KODANDA RAM



C.R.P. Nos. 5643; 5646 and 5649 of 2012

Date: 22.09.2017

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