

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

C.R.P.No.5117 of 2017

O R D E R:

This Civil Revision Petition is filed challenging the order dt.07.08.2017 in I.A.No.840 of 2017 in O.S.No.9 of 2014 of the Principal Junior Civil Judge, Palakol, West Godavari District.

2. The said suit was filed by the respondent against the petitioner for eviction of the petitioner from the plaint schedule property and for recovery of possession of the same with costs.

3. The suit was filed in February, 2014.

4. Written statement was filed by the petitioner on 10.06.2014 and was subsequently amended in I.A.No.22 of 2016 on 15.02.2016.

5. On 05.06.2017, three years after filing of the original Written Statement, petitioner sought leave of the Court to file certain municipal tax receipts in original as well as demand and special notices issued by Palakol Municipality stating that he noticed these documents prior to filing of the application and was advised by his counsel to file an application for leave to file them.

6. The Court below however rejected the same by order dt.07.08.2017 stating that the documents sought to be filed do not mention any revenue survey number or town survey number and do not appear to be in any way connected with the petition schedule property and so they cannot be received.

7. Assailing the same, this Revision is filed.

8. Counsel for petitioner contends that in the written statement filed by the petitioner itself it was indicated that the subject property had structures therein and was not vacant land as alleged by the petitioner, and in support of the said plea, these documents are sought to be filed and grave prejudice would be caused to the petitioner if he is not allowed to file the said documents.

9. Admittedly as per the Civil Procedure Code, 1908 as amended by Act 22 of 2002, with effect from 01.07.2002 it is the duty of the defendant to produce all the documents relied upon by him along with the written statement.

10. Sub-Clause(3) of Rule 1A of Order VIII of CPC however provides an exception to this Rule and states that if leave is granted by the Court, they can be received in evidence, even if they have not been produced along with the written statement.

11. Granting of leave to defendant is however not automatic and unless proper reason is shown by the defendant for not filing these documents along with the written statement, leave cannot be granted as of right.

12. In the affidavit filed in support of I.A.No.840 of 2017 no reason is given by the petitioner except stating that these documents were noticed by him before filing of the application and he was advised by his counsel to file them in the Court.

13. It is not the case of the petitioner that these documents available at a later point of time and were not available with him at the time when the written statement was filed.

14. I am therefore of the opinion that the petitioner is not entitled to grant of leave to file these documents and I see no reason to interfere with the order passed by the Court below refusing to receive these documents.

15. The Civil Revision Petition is accordingly dismissed at the stage of admission. No costs.

16. Consequently, miscellaneous petitions pending if any shall stand closed.

M.S.RAMACHANDRA RAO, J

06th October, 2017.

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