

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

CIVIL REVISION PETITION No.4975 of 2017

ORDER:

Defendants 1 and 2, in O.S.No.10 of 2009 on the file of the V Additional District and Sessions Judge, Kurnool at Nandyal, are the petitioners in the present revision, filed under Article 227 of the Constitution of India.

In the present revision challenge is to the order, dated 14.07.2017, passed by the V Additional District and Sessions Judge, Kurnool in I.A.No.296 of 2017 in O.S.No.10 of 2009, filed under Order VIII Rule 1A CPC praying the Court below to receive the following documents:

1. The certified copy of the Will dated 10.06.1992 executed by Veeramreddy Rama Subbamma.
2. The certified copy of the Cist receipt, dated 31.10.1998.
3. The certified copy of the G.P.A. executed by Venkata Ramanamma in favour of Padmavathi, dated 05.01.2010.

The said application was resisted by the plaintiff by way of filing a counter. The learned Judge, by way of the order under challenge, dismissed the said application. Hence, the present revision.

It is contended by the learned counsel for the petitioners that the impugned order is erroneous, contrary to law and opposed to the very spirit and object of the provisions of

Order VIII Rule 1A CPC. It is also the submission of the learned counsel that the reasons assigned by the learned Judge, for dismissing the application, are neither sustainable nor tenable. It is also argued that, in the event of the present application being allowed, the same would not cause any prejudice to the other side.

In the affidavit, filed in support of the present application, the third defendant stated that the Will, enclosed to the application, was filed in some other suit. He also stated that he secured the certified copies of the documents and filed the same in the said suit and the said documents are very much essential for better disposal of the suit. He further stated that the delay in filing the documents was not wilful.

According to Rule 1-A of Order VIII CPC when the defendant relies on a document in his possession or power he shall enter such a document in a list and produce it in the Court along with the written statement. Rule 1A of Order VIII CPC also mandates that when such document is not in the possession of the defendant he is required to state in whose possession the same is. Rule 1A (3) of Order VIII CPC enables the defendant, with the leave of the Court, to file the document at the time of hearing the suit.

In the instant case, as observed by the Additional District Judge, the petitioners herein did not specify any

reason for not filing the said documents at the earliest possible time. It is settled principal of law that, unless the order suffers from jurisdictional error and patent perversity, the invocation of the jurisdiction of this Court, under Article 227 of the Constitution of India, is impermissible. Therefore, this Court is not inclined to meddle with the well-articulated order passed by the V Additional District and Sessions Judge, Kurnool at Nandyal.

Accordingly, the Civil Revision Petition is dismissed. Miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

22nd December, 2017
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A.V.SESHA SAI, J

