

HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

CRP Nos.805, 806 AND 807 OF 2017

COMMON ORDER:

These revision petitions are arising out of the order passed in I.A.Nos.1012 of 2016, 1013 of 2016 and 1014 of 2016 in O.S.No.29 of 2007 on the file of II Additional District Judge, Parvathipuram.

The revision petitioner in all the revisions is the plaintiff and respondents are the defendants in the suit.

The plaintiff filed O.S.No.29 of 2007 for declaration and permanent injunction against the defendants. Defendant No.10 filed O.S.No.64 of 2011 for permanent injunction. Both the suits were clubbed together and common trial was conducted by the II Additional District Judge, Parvathipuram. The evidence of plaintiff was closed and the evidence of defendant No.10 was commenced. At that stage, the defendant No.10 filed the above said applications for calling the Revenue Officials, i.e., Tahsildar, Joint Collector and District Collector to give their evidence before the Court.

Heard Sri Bala Subrahmanyam, learned counsel for the petitioner and Smt.Siva Jyothi, learned counsel for the respondents.

Learned counsel for the petitioner submits that the respondents have filed the documents before the trial Court, which were received and marked subject to objection. He further submits that calling of the Revenue Officials to prove the documents is not necessary because the documents filed by the respondents are public documents. He placed reliance on the decision reported in

SHAIK UJAUDDIN V. VEERABHADRA UMA DEVI AND OTHERS¹,

wherein it is held as under:

“a private party, in order to substantiate his own plea, cannot seek to drag the Government officials to the Court as that would involve waste of precious time of the officials. Order XVI Rule 1 of the Code is not meant for helping litigants who fail to adduce proper and relevant evidence to prove their case and rely solely on the basis of the testimony of public servants. The predominant object of this provision is to enable the Court to summon any witness if it feels that the evidence of such person is necessary for proper and effectual adjudication of the dispute involved in the suit. It is not as if the lower Court, on application of its mind, has felt that the evidence of the Tahsildar is needed for adjudication of the dispute involved in the suit. In a suit involving disputes over immovable properties between two private parties, the Courts shall not ordinarily summon public servants to support the cause of one party unless the Court itself is of the opinion that the evidence of such public servant is required to adjudicate on the seriously disputed questions arising in the suit.”

Learned counsel for the respondents submits that the documents are marked before the trial Court subject to objection. Hence, they have to prove the documents by calling the concerned Revenue Officials. Mere marking of the documents does not amount to proof. Therefore, the respondents have filed the petitions to call the Revenue Officials for marking those documents and the trial Court has rightly allowed all the objections. They also sought for calling records from the concerned Revenue Officials to prove their case. He further submits that the revision petition is not maintainable for the reason that there is no error of jurisdiction or there is no material irregularity for exercising revisional jurisdiction. He placed reliance on the decision reported in **ESSEN DEINKI V. RAJI KUMAR²**, wherein it is held that:

“Generally speaking, exercise of jurisdiction under Article 227 of the Constitution is limited and restrictive in nature. It is so exercised in the normal circumstances for want of jurisdiction, errors of law, perverse findings and gross violation of natural justice, to name a few. It is merely

¹ 2013(1)ALD 207

² 2002 CJ(SC) 283

a revisional jurisdiction and does not confer an unlimited authority or prerogative to correct all orders or even wrong decisions made within the limits of the jurisdiction of the Courts below. The finding of fact being within the domain of the inferior Tribunal, except where it is a perverse recording thereof or not based on any material whatsoever resulting in manifest injustice, interference under the Article is not called for.”

No doubt, the order passed by the trial Court is not suffering with any jurisdictional error and there is no irregularity in the order passed by the trial Court.

In the facts and circumstances of this case, since the learned counsel for the petitioner submits that the documents sought to be marked by the respondents are public documents and were duly marked by the trial Court and the same was not objected by the petitioner, there is no necessity to call the Revenue Officials to prove the documents, which is nothing but waste of time of public officials.

In view of the fact that the documents were already marked and the petitioner submits that there is no necessity to call the Revenue Officials to prove the documents, to meet the ends of justice, instead of calling Joint Collector and District Collector, Tahsildar himself is sufficient to prove the documents.

With the above observations, CRPs are disposed of with a direction to the trial Court to consider the evidence of Tahsildar on behalf of the Revenue Officials to prove the documents, if they are so required. There shall be no order as to costs.

The Miscellaneous Petitions, if any, pending shall stand closed.

GUDISEVA SHYAM PRASAD,J

Date : 17.02.2017
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