

HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

C.R.P.No.2821 of 2017

ORDER

Heard learned counsel appearing for the petitioners and learned counsel appearing for the caveator.

The petitioners are the plaintiffs. They filed O.S.No.114 of 2011 for mandatory injunction before the Principal Junior Civil Judge, Chirala.

In the said suit, the defendants filed their written statements and the trial of the suit was commenced. When the case was coming up for cross-examination of the plaintiffs, they filed I.A.No.1234 of 2016 seeking production of the documents in the written statement filed by the defendants.

A counter-affidavit is filed on behalf of the 1st defendant stating that the 1st plaintiff died and as his legal heirs were not added as parties to the suit, the same was abated. Since the suit was filed for mandatory injunction, the plaintiff must prove his title, interest and right in the plaint schedule property. It is also stated that it is not the proper stage to file the present petition.

After considering the rival pleadings, the trial Court dismissed the application with the following observations:

“Upon hearing both sides and on perusal of relevant material on record, it is found that admittedly, petitioners filed suit for mandatory injunction against respondents seeking removal of existing structures in schedule property and respondents also contesting the suit and matter came for trial and petitioner No.2 filed his chief affidavit and he has to undergo cross-examination by other side, at this juncture, the petitioners got filed this petition seeking to direct respondents for cause production of documents which mentioned in written statement. The petitioners who filed suit for mandatory injunction at the outset have to establish their rights, title and interest over suit schedule property by adducing their own documents. The petitioners admittedly so far adduced legal notice and served acknowledgment as their documents. Except the said documents, they did not file any other documents in support of their contention. The respondents also admittedly got mentioned about their right and title over schedule property and also the documents on which they relied. The petitioner did not deny those documents by filing any re-joinder. When trial into matter is commenced, the petitioner wanted to go through the documents got mentioned by respondents in their written statement as such the mention of petitioners appears to have to procrastinate the matter without getting ready to undergo cross-examination. Admittedly, the petitioners have to establish their case with their own strength but not the documents on which respondents rely. The petitioner may inspect the documents of respondents when they put forth such documents before this Court. Moreover, the respondent also did not whisper where such documents are lying. If it is so, insisting respondents at this stage for cause production of such documents is not tenable. Moreover, R7 of Or.16 empowers this Court

to direct any person present in this Court to give evidence or produce document. Any person means a party who is not either plaintiff or defendant. This petition is devoid of merits. Hence, dismissed.”

Challenging the said order, the above Civil Revision Petition is filed.

As rightly pointed out by the trial Court, the petitioners can inspect the documents of the respondents when they are produced before the Court. The petitioners have to establish their right, title and interest over the suit schedule property by adducing their own documents and on the strength of the evidence available with them. The observations made by the trial Court are proper and they do not warrant any interference of this Court.

Accordingly, the Civil Revision Petition is dismissed. No costs.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE A.RAMALINGESWARA RAO

23rd June, 2017
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