

HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CIVIL REVISION PETITION No.1668 OF 2015

ORDER:

This Revision is preferred under Article 227 of Constitution of India challenging the order dated 12.03.2015 in I.A.No.160 of 2015 in O.S.No.152 of 2008 passed by the IV Additional Junior Civil Judge, Rajahmundry, whereby the petition filed under Order XIV Rules 1,2,6 and 7 of Code of Civil Procedure (for short, hereinafter, referred to as "C.P.C.") was dismissed.

The petitioner filed a petition under Order XIV Rules 1,2,6 & 7 of CPC, to issue summons to Mandal Revenue Officer, Bommuru, Rajahmundry Rural Gram Panchayat, Hukumpeta and Branch Manager Jana Chaitanya Housing Private Limited, Rajahmundry, for producing the certificate of inspection dated 18.1.2002 and gift deed executed by Jana Chaitanya Housing Private Limited, Rajahmundry, to an extent of Ac. 6.00 cents in favour of Hukumpeta Grampanchayat, Rajahmundry Rural, to prove his case. Respondent did not file any counter.

The trial Court, upon hearing argument of the counsel for the petitioner and respondents concluded that there was no reference about the inspection by Mandal Revenue Officer in the pleadings and similarly the alleged gift was not spoken to by PWs 1 & 2 and executed by Jana Chaitanya Housing Private Limited, Rajahmundry in favour of Hukumpeta Gram Panchayat and that the petitioner can obtain a document,

which is a public document, by following necessary procedure and instead of resorting to such procedure, the petitioner filed the petition and accordingly dismissed the petition.

Petitioner filed a suit for perpetual injunction restraining the respondents/defendants therein from interfering with the peaceful possession and enjoyment of the property. To substantiate his claim of possession of the property, petitioner sought for report from Mandal Revenue Officer, Bommuru, Rajahmundry Rural dated 18.1.2002. If really the Mandal Revenue Officer, Bommuru inspected the disputed property to an extent of Ac. 18.32 cents in S.Nos. 45 and 21/1 of Morampudi Village along with 196 plots and submitted his report to the Sub-Collector, Rajahmundry, it will be available with the Office concerned, and it became a public document. According to Rule 129 of Andhra Pradesh Civil Rules of Practice and Circular Orders, 1980, summons for the production of records in the custody of a Public Officer other than a Court shall be in Form No. 23 and shall be addressed to the Head of the Office concerned and in the case of a summons to a District Registrar or a Sub-Registrar of Assurances, it shall be addressed to the Registrar or Sub-Registrar in whose office, or sub-office, as the case may be, the required records are kept. According to Sub-Rule (3) of Rule 129 no Court shall issue such summons unless it considers the production of the original is necessary or is satisfied that the application for a certified copy has been duly made and has not been granted.

The Court shall in every case record its reasons in writing and shall require the applicant to deposit in Court, before the summons is issued, to abide by the order of the Court, such sum as it may consider necessary to meet the estimated cost of making a copy of the document when produced.

In this Case, there is no averment that the petitioner has applied for certified copy of the report allegedly submitted by the Mandal Revenue Officer to the Sub-Collector, Rajahmundry, inspecting the land supra on 18.1.2002. In the absence of such information in the petition, the Court cannot exercise its power to summon the Mandal Revenue Officer, Bommuru for production of certificate dated 18.1.2002 in view of bar under Sub Rule (3) of Rule 129 of Andhra Pradesh Civil Rules of Practice and Circular Orders. Therefore, on this ground, the petitioner disentitles to issue summons to the Mandal Revenue Officer, Bommuru for production of such report dated 18.1.2002.

The other document sought to be summoned is the gift deed executed by Jana Chaitanya Housing Private Limited in favour of Hukumpeta Gram Panchayat, Hukumpeta, was also a public document and even in the allegations made in the petition it is stated that the alleged gift deed was a registered document and the petitioner can obtain a certified copy of the same. Rule 129 of A.P. Civil Rules of Practice and Circular Orders, this Court cannot summon such document, which is a public document but the petitioner did not comply the request

under sub-rule (3) of Rule 129 of A.P. Civil Rules of Practice. On this ground the Civil Revision Petition is liable to be dismissed.

Accordingly, the Civil Revision Petition is dismissed. However, liberty is given to the petitioner to obtain certified copies in compliance of Rule 129 of A.P. Civil Rules of Practice and Circular Orders and produce the same, if he is so advised. There shall be no order as to costs. The miscellaneous petitions, pending if any, shall stand closed.

Date: 20.04.2017
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M.SATYANARAYANA MURTHY, J

