

THE HON' BLE SRI JUSTICE T. SUNIL CHOWDARY

CIVIL REVISION PETITION No.850 of 2017

ORDER:

This civil revision petition is filed under Article 227 of the Constitution of India challenging the orders dated 31.01.2017 in I.A.No.2 of 2017 in O.S.No.631 of 2010 on the file of the court of IV Additional Rent Controller, Hyderabad.

Heard both the counsel.

A perusal of the record reveals that the respondent herein filed O.S.No.631 of 2010 on the file of the Court of IV Additional Rent Controller, Hyderabad against the petitioners herein for perpetual injunction in respect of the house bearing door No.8-2-547/ 31/ 1 in Sy.No.129/ 65 admeasuring 1000 sq. yards situated at Road No.7, Banjara Hills, Hyderabad. At the fag end of the trial, the petitioners-defendants filed I.A.No.2 of 2017 to receive the documents. The respondent-plaintiff filed counter opposing the same. After affording reasonable opportunity to both the parties, the trial Court dismissed the petition on 31.01.2017.

A perusal of the record reveals that at the time of cross-examination, the respondent herein, who is P.W.1, denied the suggestion that Exs.A2 and A3 in this suit were marked as Exs.A1 and A2 in O.S.No.1023 of 2005 on the file of the Court of First Senior Civil Judge, City Civil Court, Hyderabad. Thereafter, the petitioners herein filed I.A.No.29 of 2016 to call for Exs.A1 and A2 in O.S.No.1023 of 2005 and the same was dismissed by the court below with an observation that the petitioners are at liberty to obtain the documents by following the procedure. Thereafter, the petitioners herein obtained the certified

copies of Exs.A1 and A2 in O.S.No.1023 of 2005 and filed I.A.No.2 of 2017.

It is not in dispute that Exs.A1 and A2 in O.S.No.1023 of 2005 and Exs.A2 and A3 in O.S.No.631 of 2010 are one and the same. For the reasons best known, P.W.1 denied the suggestion that Exs.A1 and A2 in O.S.No.1023 of 2005 and Exs.A2 and A3 in O.S.No.631 of 2010 are one and the same. Because of denial of the same by the respondent, the petitioners herein are forced to file the petition under challenge to receive the documents. The petitioners have assigned reasons much less cogent and valid reasons for non-filing of the documents along with the suit. Even if the petition is allowed, the same may not cause any prejudice to the respondent. The trial Court dismissed the petition on the sole ground that certified copy of a certified copy cannot be received under Order VIII Rule 1(a)(iii) read with 151 CPC. There is no bar under law to receive the certified copy of a document. If the respondent is having any objection, he can raise the same at the time of marking of the documents. Mere receiving of the documents would not amount to admissibility of the same. The finding recorded by the Court below is not sustainable either on facts or in law.

Having regard to the facts and circumstances of the case, the present revision petition is allowed setting aside the orders passed by the court below in I.A.No.2 of 2017 in O.S.No.631 of 2010. Consequently, I.A.No.2 of 2017 in O.S.No.631 of 2010 on the file of the IV Additional Rent Controller, at Hyderabad stands allowed. As a sequel, the miscellaneous petitions, pending if any, shall stand closed.

T.SUNIL CHOWDARY, J

March 3, 2017.
Pns

