

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

C.R.P.No.4575 of 2017

Date: 15.12.2017

Between:

Neelam Sammaiah S/o.Balaiah,
Aged about 65 years, Occ: Retd. Employee,
R/o.Kothawada, Warangal City and district
and another ... Petitioners

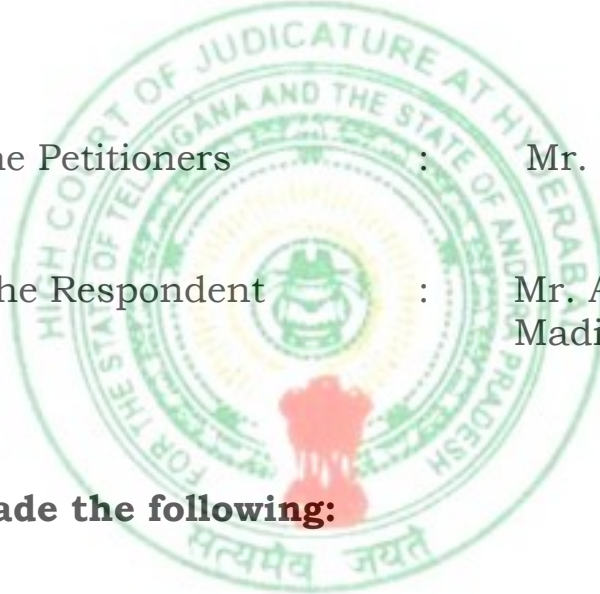
And

Smt.Kuncha Pavani, W/o.Kumara Swamy,
Aged about 36 years, Occ: Housewife,
R/o.H.No.16-10-295, Shivanagar,
Warangal city and district ... Respondent

Counsel for the Petitioners : Mr. P.Pankaj Reddy

Counsel for the Respondent : Mr. Ajay Kumar
Madisetty

The Court made the following:



Order :

Heard the learned counsel for the petitioners and the learned counsel for the respondent.

2. Petitioners are defendants in the suit. Suit is filed for injunction simpliciter. In support of the claim that the defendants are in possession and enjoyment of the property and that the property was purchased by them, defendants placed reliance on a simple sale deed, claimed to have been executed on 11.05.1981 from Mahantha Surender. According to the defendants, the said document was filed before the Tahsildar, Hanamakonda, for mutation of their names in the revenue records and based on the document filed, the names of the defendants were mutated in the revenue records. During the course of recording of evidence, when the defendants sought to present copy of the document, the same was not permitted as it was not a certified copy. In view of the same, defendants filed I.A.No.584 of 2017 under Order XVI Rule 15 of C.P.C., to issue summons to the Tahasildar, Hanamkonda, to produce original simple sale deed and to give evidence as a witness.

3. In the order against which this revision is filed, the prayer of the defendants is rejected on the ground that this petition filed to summon the documents and give evidence, at the stage of cross examination of DW1, and is nothing but filling up the lacuna and, therefore, is not tenable.

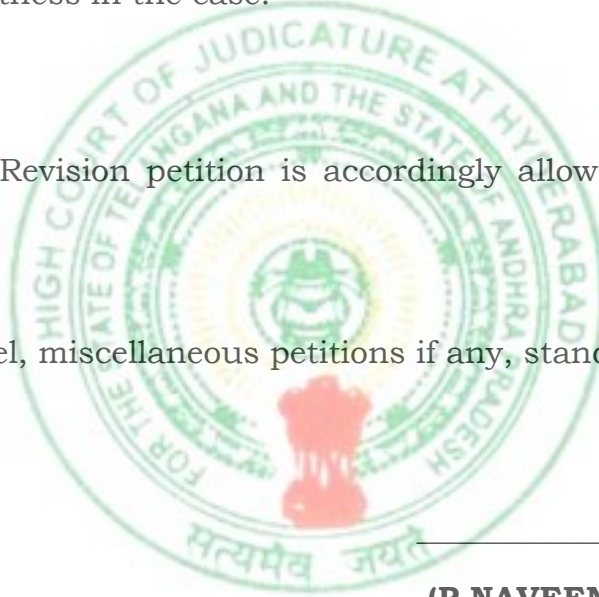
4. On the perusal of the written statement filed, it is clear that in paragraph 7, the defendants have referred to the so called simple sale deed stated to have been executed on 11.10.1981 and mutation granted in their favour. Thus, it is not a case of introducing new plea/material at

the belated stage, as observed by the Court below. In the facts of this case, it cannot be called as a belated application. As narrated in the affidavit filed in support of the I.A., since the earlier prayer to mark the documents was not accepted, the defendants have filed this I.A.

5. Having regard to the facts noted above, this Court is of the opinion that the decision of the Court below in rejecting the I.A., is not sustainable and, it is accordingly, set aside. The Court below is directed to call for the original simple sale deed on the file of the Tahasildar, Hanamkonda, and to summon the Tahsildar, Hanamkonda, to give his evidence as a witness in the case.

6. The Civil Revision petition is accordingly allowed. No order as to costs.

7. As a sequel, miscellaneous petitions if any, stand dismissed.



(P.NAVEEN RAO, J)

Date: 15th December, 2017

msb

