

THE HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

CIVIL REVISION PETITION No.6520 OF 2016

ORDER:

Heard Sri G. Ramesh Babu, learned counsel for the petitioner and Sri M.S.P. Kamaraj, learned counsel for the respondent, and with their consent this Civil Revision Petition is disposed of at the admission stage.

2. This Civil Revision Petition is filed by the petitioner/plaintiff aggrieved by the order dated 13.12.2016 in I.A.No.648 of 2016 in I.A.No.1037 of 2015 in O.S. No.187 of 2015 on the file of Principal Junior Civil Judge, Rayachoty, whereunder the trial Court has allowed the petition filed by the petitioner/defendant under Order 16 Rule 6 read with Section 151 of C.P.C. to issue summons to the Tahsildar for cause production of original documents relating to D.K.T. Patta said to be issued in favour of the petitioner/plaintiff for comparison. I.A. No.648 of 2016 was filed by the defendant with the averments that the respondent/plaintiff allegedly in possession of suit schedule land by virtue of the assignment of land in DKT No.261/1422, dated 19.10.2012; the respondent/plaintiff colluded with the revenue officials and got prepared the revenue records in the Revenue office, Rayachoty and basing on the fabricated documents he filed the suit for interim injunction; in fact the suit land was assigned to defendant under DKT Patta No.24/1401, dated 6.2.1992 and the defendant was in possession and enjoyment of the suit land; in order to prove that DKT Patta allegedly issued in favour of respondent/plaintiff under Patta No.261/1422 was fabricated one and on the other hand original patta was the one under Patta No.24/1401, summoning of original record

from the Tahsildar, Rayachoty was essential. With these averments, the said petition was filed by the defendant. The respondent/plaintiff opposed the said petition. The trial Court making clear that the production of original documents is necessary to compare the documents submitted by the respondent/plaintiff as well as the petitioner/defendant for arriving a just conclusion, allowed the petition. Hence the instant Civil Revision Petition at the instance of the petitioner/plaintiff.

3. The argument of the learned counsel for the petitioner is that as per Rule 129 of Civil Rules of Practice, though a Court was empowered to issue summons to the concerned public officer for production of records, the Court would not summon the records unless, under sub-rule (3), the Court was satisfied that application for certified copy had been duly made and had not been granted by the concerned public office and in the instant case the respondent/defendant has not established before the trial Court that he made such an application before the Tahsildar office and that his application was dismissed. Therefore, the trial Court ought not to have issued summons at the first instance. However, without considering the objections raised by the petitioner/plaintiff, the trial Court issued summons.

4. On the other hand, learned counsel for the respondent/defendant would submit that in the affidavit filed in I.A.No.648 of 2016, the petitioner/defendant made it clear that he filed copies supplied by Tahsildar, Rayachoty under application filed under Right to Information Act, 2005 and therefore it was evident that he followed the procedure contemplated under Rule 129 (3) of Civil Rules of Practice.

5. In view of the above rival contentions, the point for consideration is whether there are merits in the Civil Revision Petition to allow?

6. As can be seen from the affidavit filed in I.A.No.648 of 2016, the contention of the petitioner/defendant therein was that the respondent/plaintiff obtained DKT Patta No.261/1422 in collusion with the revenue officials and basing on that patta he got prepared revenue records, and in fact the petitioner/defendant has obtained DKT Patta No.24/1401 in respect of the suit schedule land and therefore to prove that DKT patta obtained by the respondent/plaintiff was not a valid one, the concerned records from the office of Tahsildar, Rayachoty were required. On that ground he filed petition to summon the records from the Office of Tahsildar, Rayachoty. The respondent/plaintiff opposed the said petition.

7. A perusal of the impugned order would show that the trial Court opined that it has to issue summons to Tahsildar, Rayachoty, for cause production of original documents (*emphasis supplied*) to compare the documents submitted by the respondent as well as the petitioner for arriving at a just conclusion of the petition. Accordingly, it allowed the petition.

8. It is true that the trial Court in its order has not discussed the impact of Rule 129 (3) of Civil Rules of Practice, which reads thus:

129. (76) Production of records in the custody of a Public Officer other than a Court:-

(1)

(2)

(3) No Court shall issue such summons unless it considers the production of the original 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.

- (4)
- (5)
- (6)

A perusal of Rule 129 (3) of Civil Rules of Practice would show that the Court is empowered to issue summons for production of the records in the custody of a Public Officer. No Court shall issue such summons unless it considers the production of the original necessary or is satisfied that the application for a certified copy has been duly made and it has not been granted. Further, 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.

9. As stated supra, the trial Court, no doubt, has not discussed as to whether the petitioner/defendant therein has either applied for certified copies or not. However that will not have a bearing in the result because as per the averments of the defendant, the plaintiff obtained DKT Patta in collusion with revenue officials and basing on the said DKT Patta he got fabricated some other documents, like Village Adangals, etc. and to establish these facts the original records pertaining to DKT patta were required from the office of Tahsildar, Rayachoty.

10. In the light of the above averments, original records were necessary from the office of the Tahsildar, Rayachoty for comparison. Hence, certified copies obtained in Rule 129 (3) of Civil Rules of

Practice will be of no use for comparison since comparison has to be made obviously with the help of original records. Therefore, the trial Court in its order has emphatically made it clear that the said Court was of the opinion that summons has to be issued to Tahsildar for cause production of original documents. Further, in the affidavit of defendant he stated he obtained copies through an application under Right to Information Act.

11. In that view of the matter, this Court finds no perversity or illegality in the order impugned., and accordingly, the Civil Revision Petition is dismissed. No order as to costs.

As a sequel, miscellaneous applications pending, if any, in this Revision shall stand closed.

Dt: 27-01-2017
gbs



U.DURGA PRASAD RAO,J