

HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

C.R.P.No.1690 OF 2015

ORDER:

This civil revision petition is filed under Article 227 of the Constitution of India by the petitioner/plaintiff challenging the order dated 17.03.2015 in I.A.No.689 of 2014 in O.S.No.64 of 2010 of the Senior Civil Judge, Razole declining to issue summons to the Secretary, Grampanchayat, Tatipaka to produce documents, which is filed under Order 16 Rule 5 of the Code of Civil Procedure (for short 'CPC').

It is the case of the petitioner that she filed O.S.No.64 of 2010 against the respondents/defendants for partition of plaint schedule property with consequential relief and she was examined as PW.1. She contended that the respondents falsely contended that her father executed a Will on 15.03.2010 and mutations were done by the Grampanchayat of Tatipaka in respect of houses bearing Nos.8-173, 8-290 and 8-185 from the name of Pithani Rama Chandra Rao, father of the petitioner to the name of the 4th respondent basing on the alleged Will and suppressed the partition deed dated 07.05.2010. She further contended that the Panchayat Secretary, Tatipaka intimated, on her application that the said mutations were taken place basing on the partition deed dated 07.05.2010. The alleged Will falsifies that it was executed by her father on 15.03.2010. Therefore, the Panchayat Secretary is sought to be summoned to produce the record relating to the

nature of documents, which were presented by the 4th respondent for mutation.

Respondents resisted the claim of the petitioner on the ground that when she got information regarding mutation proceedings, calling for the records from the office of Grampanchayat, Tatipaka, is in contravention of Rule 129 (2)(3) of the Civil Rules of Practice and that the petitioner is not entitled to claim any relief and prayed for dismissal.

Upon hearing the argument of both counsel, the trial Court dismissed the petition for summoning the Secretary of Grampanchayat, Tatipaka by assigning its own reasons more particularly when the petitioner obtained information regarding mutation in the name of the 4th defendant in the place of her father Pithani Rama Chandra Rao and she is in possession of the said documents.

Aggrieved by the same, the present revision petition is filed under Article 227 of the Constitution of India contending that the decision of the trial Court dismissing the application to summon the Panchayat Secretary to produce the records relating to the documents that were presented by the 4th respondent for mutation is contrary to law and illegal. The trial Court ought to have considered the partition deed dated 07.05.2010, which was not disclosed in the written statement. In such a case the evidence of Panchayat Secretary is necessary, but the trial Court on wrong appreciation dismissed the petition.

During hearing, Sri M.Bala Subrahmanyam, Counsel for the petitioner contended that she intend to summon the Panchayat Secretary to give evidence, as she obtained certified copies of the documents, which are required to be confronted to the said Panchayat Secretary by examining him, but the trial Court did not consider the same.

Learned counsel for the respondents supported the order under challenge before this Court in all respects.

As seen from the relief claimed in the petition, the Panchayat Secretary, Tatipaka, Razole Mandal, East Godavari District is sought to be summoned and produce record relating to documents presented by the 4th respondent for mutation of houses bearing door Nos.8-173, 8-290 and 8-185 from the name of Pithani Ramachandra Rao to his name in the house tax demand register and other Grampanchayat registers. The same is reflected in the last para of the affidavit. Therefore, the purpose of summoning Grampanchayat Secretary is limited i.e. production of records. In the affidavit, the petitioner herself admitted that she obtained such information from the Secretary as required under Rule 129((2)3) of the Civil Rules of Practice. When such certified copies of documents were obtained, question of summoning those documents again from the Secretary, Grampanchayat, Tatipaka is not necessary. At best, the documents can be confronted to a competent witness to speak about those documents and whether the Secretary is competent or not is not the question

to be decided in view of the limited prayer claimed in the petition filed under Order 16 Rule 5 of C.P.C.

It is settled law that the Court cannot travel beyond the pleadings and grant relief as held by the Apex Court in **Union of India v. Ibrahim Uddin and another**¹

Therefore, the relief sought for by the petitioner in the present revision to summon the Panchayat Secretary, Tatipaka to confront documents obtained by her is beyond the scope of relief claimed in the petition. However, the petitioner is at liberty to file appropriate application before the trial Court. But in the present revision such relief cannot be granted since no error is found in the order under challenge warranting interference of this Court by exercising power under Article 227 of the Constitution of India. Hence, the revision petition is devoid of merits and is liable to be dismissed.

Accordingly, the civil revision petition is dismissed confirming the order dated 17.03.2015 passed in I.A.No.689 of 2014 in O.S.No.64 of 2010 by the Senior Civil Judge, Razole. There shall be no order as to costs.

Pending miscellaneous petitions in the petition, if any, shall stand closed.

M.SATYANARAYANA MURTHY,J

26.04.2017
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¹ 2012(8) SCC 148