

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

CIVIL REVISION PETITION No.120 of 2017

ORDER:

The Civil Revision Petition is filed challenging the order dated 29.11.2016, passed by the Principal Senior Civil Judge, Nellore in I.A.No.607 of 2016 in O.S.No.1 of 2008, wherein and whereby the application filed by the petitioner-1st defendant under Order 13 Rule 10 read with Section 151 CPC seeking to call for the entire record in A.T.C.No.29 of 1989 including Exs.B.1 to B.3 on the file of Tenancy Tribunal (Principal Junior Civil Judge, Nellore), presently at District Central Record Room, Nellore, was dismissed.

Heard the learned counsel for the petitioner and none appeared for the respondents.

Having heard the learned counsel for the petitioner and having perused the record, I do not find any *bonafides* in the impugned application filed by the petitioner. In that view of the matter, the impugned order passed by the Court below cannot be found fault. It is an admitted fact that the 1st respondent-plaintiff filed a suit in O.S.No.1 of 2008, on the file of the Principal Senior Civil Judge, Nellore, for recovery of the suit schedule property. It is also an admitted fact that the petitioner-1st defendant is in the possession and enjoyment of the suit schedule property, the defence taken by him is that he is not the tenant of the 1st respondent-plaintiff and he has acquired the right, title over the property on account of the agreement of sale dated 30.10.1984. It may be significant to note that even in the

A.T.C.No.29 of 1989, the plaintiff had taken a stand that the agreement of sale which is claimed by the plaintiff is a rank forgery. At any rate, the suit is at the stage of recording the evidence and this is a suit of 2008 and the oldest suit on the file of the Court below. When the petitioner-1st defendant taken a plea that he is claiming right through an agreement of sale, nothing prevented him to bring on record the agreement of sale on which he is relying along with the written statement as is required to be done in terms of Order VIII and Rule 1A of C.P.C. This is more so on account of the amendments of the C.P.C wherein it has been made mandatory that the documents on which the respective parties rely on are required to be brought on record along with the plaint/written statement. Petitioner having not done, even at this stage between 1989 to till date nothing prevented the petitioner to have obtained the respective original documents which he alleges to have filed in the A.T.C or at least certified copies of the same. Petitioner having not done so, at the fag end of the suit had come up with the present I.A. The Court below had come to the conclusion that there are no *bonafides* and no due diligence which is required to be shown by the petitioner. However, it may be noted that the Court below had given liberty to the petitioner to obtain the certified copies of the documents including Exs.B.1 to B.2 in the A.T.C.No.29 of 1989 and file the same before the Court below in O.S.No.1 of 2008. In other words, no prejudice as such would be caused to the petitioner on account of the dismissal of the impugned I.A and there are no reasons to interfere with the impugned order.

Accordingly, the Civil Revision Petition is dismissed. No order as to costs.

Miscellaneous Petitions pending, if any, in this civil revision petition shall stand closed.

CHALLA KODANDA RAM,J

06.01.2017.

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