

THE HON'BLE SRI JUSTICE SANJAY KUMAR

CIVIL REVISION PETITION NO.1220 OF 2017

O R D E R

This civil revision petition under Article 227 of the Constitution arises out of the order dated 16.12.2016 passed by the learned Special Sessions Judge for Trial of Cases under SCs & STs (POA) Act, 1989-cum-VII Additional District and Sessions Judge, Ranga Reddy District at L.B.Nagar, in I.A.No.1643 of 2015 in A.S.No.127 of 2015. The said appeal was filed by the defendants in O.S.No.341 of 2010 on the file of the learned I Additional Junior Civil Judge, Ranga Reddy District at L.B.Nagar. In the said appeal, the appellants/defendants filed I.A.No.1643 of 2015 under Order 41 Rule 27 CPC to receive additional documentary evidence on the ground that the same had not been marked before the trial Court. By the order under revision, the appellate Court dismissed the I.A. Hence, this civil revision petition by the appellants in A.S.No.127 of 2015.

Heard Sri K.Ramachandra, learned counsel representing Sri C.Srikanth Reddy, learned counsel for the petitioners, and Sri V.S.R.Ravinuthala, learned counsel for the respondents.

Perusal of the order under revision reflects that the appellate Court found that the requirements of Order 41 Rule 27(aa) CPC were not satisfied and therefore, the appellants were not entitled to adduce additional evidence. Perusal of the affidavit filed in support of the I.A. bears out this fact as it was not the case of the petitioners/appellants that despite exercise of due diligence, they could not produce the documents in question. On the other hand, para 4 of the affidavit demonstrates that during the examination of D.Ws.1 and 2 on their behalf before the trial Court, the documents were in fact produced

but as they were not adducible in evidence, they were not marked. That being so, the requirements of Order 41 Rule 27(aa) CPC were not satisfied.

This Court therefore finds no reason to interfere with the order under revision.

While so, Sri K.Ramachandra, learned counsel, produced the judgment of the Supreme Court in **STATE OF RAJASTHAN V/s. T.N.SAHANI**¹ which held to the effect that it would be inappropriate for the appellate Court to take a view in the application filed under Order 41 Rule 27 CPC before hearing of the appeal. This was because Order 41 Rule 27(b) CPC empowers the appellate Court to require any document to be produced to enable it to pronounce judgment, or for any other substantial cause. This discretion, which is vested in the appellate Court under Order 41 Rule 27(b) CPC, is independent of the party making out a case for adducing such additional evidence under Order 41 Rule 27(aa) CPC.

The civil revision petition is accordingly dismissed making it clear that this order shall not preclude the appellate Court from exercising its discretion under Order 41 Rule 27(b) CPC if it deems it appropriate to take recourse to the said provision during the hearing of the appeal. Pending miscellaneous petitions, if any, shall also stand dismissed. No order as to costs.

SANJAY KUMAR, J

2nd JUNE, 2017

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¹ (2001) 10 SCC 619