

THE HON' BLE SRI JUSTICE C.PRAVEEN KUMAR

CIVIL REVISION PETITION Nos.212 and 223 of 2017

COMMON ORDER:

1) Both the Civil Revision Petitions are filed, aggrieved by the common order dated 18.11.2016 passed in I.A.Nos.443 and 473 of 2016, wherein an application made under Order VII Rule 14 (3) of C.P.C. praying to receive the documents and an application made under Section 151 of C.P.C. to re-open the evidence, was rejected.

2) Since the issue involved in both the Civil Revision Petitions filed under Article 227 of the Constitution of India are interconnected, they are being disposed of by this common order.

3) The facts in issue are as under:

The petitioners herein filed O.S.No.59 of 2008 seeking partition of the plaint schedule property into seven equal shares and to allot four shares to them. The averments in the affidavit filed in support of the petition would show that plaintiff No.1 examined himself as PW1 and also examined PWs.2 and 3 in support of his plea. He also got marked Exs.A1 to A4. Now the present suit is coming up for cross-examination of DW.2. It is stated that recently, the petitioners have secured some important documents which were misplaced in the house of petitioner No.4 and the said documents are very crucial to prove their case. Hence, they filed these two applications, one for re-opening the

evidence and another is for receiving the documents by condoning the delay. It is further stated in the affidavit that the petitioners have no intention to drag on the matter.

4) Respondent No.3 filed counter contending that the plaintiffs have already examined three witnesses and their evidence was closed on 25.07.2016. It is also stated in the counter that the document now filed pertain to the year 1968. The said document relates to a simple mortgage deed, which is no way concerned with the suit properties and there was no reference about the said document in their pleadings. It is also stated that all the documents are un-registered documents and they cannot be received in evidence unless stamp duty and penalty is paid, since the same are compulsorily registerable documents.

5) Respondent No.5 filed counter contending that the present petitions are filed at a belated stage only to fill up the lacunas in their case.

6) After considering the arguments advanced, the trial Court dismissed both the petitions. Aggrieved by the same, the present revision petitions are filed.

7) Learned counsel for the petitioners would submit that recently the petitioners secured the documents, which are sought to be received and the said documents are very crucial to prove their case.

8) A perusal of the copy of the affidavit filed in support of I.A. would show that the petitioners herein sought marking of registered simple mortgage deed executed by M.Narasamandadi in favour of K.Dhanamma, kararunama executed by defendant No.2 in favour of plaintiffs and defendant No.3, condition letters executed by defendant Nos.1 and 2 in favour of Rajamanikyam Naidu and Sadasivamandadi. The averments in the affidavit filed in support of the petition does not anywhere say as to how the said documents are useful to the case of the petitioners/ plaintiffs. Apart from that the petitioners failed to give any reasons as to why the said documents were not filed along with the suit. The only reason now given is that they lost the said documents in the said house. It is to be noted here that the suit is of the year 2008 and when the case is posted for arguments, the present applications came to be filed.

9) In *Ravi Satish v. Edala Durga Prasad*¹ this Court held that grant of leave by the Court for receiving the documents shall not be on mere asking nor is the Court a mere Post-office to receive documents even in the absence of any reasons furnished for failure to file the said documents along with the plaint.

10) In view of the judgment referred to above and having regard to the circumstances stated above, I am of the opinion that the petitioner failed to furnish proper and sufficient reasons for receiving the documents at a belated stage.

¹ (2009) 3 ALT 236

11) For the aforesaid reasons, the present Civil Revision Petitions sans merit and the same are accordingly dismissed. No order as to costs.

12) As a sequel thereto, Miscellaneous Petitions pending if any, shall stand closed.

JUSTICE C.PRAVEEN KUMAR

09.06.2017
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