

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

CIVIL REVISION PETITION No. 1071 of 2013

ORDER:

This civil revision petition is filed by the plaintiff, aggrieved by the orders, dated 08.02.2013, passed by the Senior Civil Judge, Gudur, in I.A.No.35 of 2013 in O.S.No.215 of 2009, allowing the said application filed by the defendants seeking leave to file a document, namely, Oppudala Patramu, dated 15.07.2004, and receive the same by condoning the delay, on the ground that the said document could not be filed at the time of filling of their written statement, as it was misplaced.

Heard the learned counsel on both sides and perused the record.

The counsel for the petitioner/plaintiff contends that when once the respondents/defendants have taken a plea in their written statement in respect of execution of the alleged Oppudala Patram, dated 15.07.2014, they should have filed the said document along with the written statement, that no reasonable explanation has been offered for non-filing of the document along with the written statement, and that filing of the document at subsequent stage is not permissible. In support of his contentions, he relied upon the

judgments of this Court in *N. Tyagaraju Vs. S. Narayana Swamy*¹ and *Pavuluru Mohan Rao Vs. Gudipati Krishnamma*².

The judgments relied upon by the learned counsel for the petitioner are not applicable, because the facts in those cases and the facts in the present case are different.

A perusal of Order VIII Rule 1-A(3) of CPC reads as under:

“A document which ought to be produced in Court by the defendant under this rule, but, is not so produced, shall not, without the leave of the Court, be received in evidence on his behalf at the hearing of the suit”.

In view of the above rule position and as the Court below has considered all the aspects in proper perspective, I find no illegality or irregularity warranting interference with the impugned order. Hence, the Civil Revision Petition is dismissed.

Consequently, miscellaneous petitions if any pending in the revision shall stand dismissed. There shall be no order as to costs.

ABHINAND KUMAR SHAVILI, J

10th November, 2017
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¹ 2014 (1) ALD 108

² 2014 (2) ALD 29

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