

THE HON' BLE SRI JUSTICE C.PRAVEEN KUMAR

CIVIL REVISION PETITION No.5552 of 2017

ORDER:

1) Aggrieved by the order dated 12.10.2017, passed in I.A.No.1072 of 2017 in O.S.No.143 of 2008 on the file of the Junior Civil Judge, Razole, wherein an application filed to receive the possession certificate issued by the Tahsildar, Sakhinetipalli was dismissed, the present Civil Revision Petition came to be filed.

2) The facts in issue are as under:

The first respondent herein filed O.S.No.143 of 2008 seeking permanent injunction restraining the defendants, their men, followers, successors and henchmen from interfering with the plaintiff's peaceful possession and enjoyment of the plaint schedule property in any manner. After completion of the entire evidence and when the matter is posted for arguments, the petitioner/ defendant No.3 filed I.A.No.1072 of 2017 to receive the possession certificate dated 07.10.2017 issued by the Tahsildar, Sakhinetipalli, stating that they are in possession and enjoyment of the property.

3) Plaintiff filed counter contending that the document sought to be received is not a legal and valid document and the same is created with an ulterior motive. It is also stated that the said document is not relevant as it will not create any rights in favour

of the petitioner. It is further stated that that the present petition is filed at a belated stage only to fill up the lacunas in their case.

4) After considering the arguments advanced, the trial Court dismissed the said petition. Aggrieved by the same, the present revision petition is filed.

5) Learned counsel for the petitioner would submit that recently, the petitioner has secured the document and the said document is very crucial to prove their possession. It is urged that great prejudice would be caused if the document is not placed on record.

6) Learned counsel for the respondent/plaintiff would submit that the suit is posted for arguments and only with a view to drag on the proceedings, the petitioner filed the present application.

7) A perusal of the affidavit filed in support of I.A. would show that the petitioner herein sought for marking of the possession certificate, issued by the Tahsildar. The averments in the affidavit filed in support of the petition does not anywhere say as to how the said document is useful to the case of the petitioner. Apart from that, the petitioner failed to give any reasons as to why the said document was not filed along with the written statement. It is to be noted here that the suit is of the year 2008 and when the case is posted for arguments, the present application came to be filed.

8) Situation in some what identical to the case on hand came up for consideration before this Court in *Managing Director, APSRTC, Hyderabad and others v. P.V.Surya Narayana*¹. It was also a case where a suit was filed for cancellation of gift deed dated 05.11.1998, executed in favour of the defendants. Additional documents were sought to be brought on record to prove the case of defendants. Relying upon the various judgments cited by both the parties, this Court held that unless the reasons are assigned to disclose sufficient cause of failure to produce the documents within the time stipulated under Rule 1-A(3) of Order VIII, the court should not permit the defendants to produce the document. The court held that in the absence of any pleading, that despite due diligence, he could not trace-out the documents, rejected the request by confirming the finding given by the trial court.

9) In *Ravi Satish v. Edala Durga Prasad*² 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 *Lakshmi Priya Exports (India) (P) Ltd., Chittoor and others v. Ramalingam Mills Ltd., Chittoor*³ wherein a learned Single Judge of this Court held as under:

¹ 2017(4) ALD 733

² (2009) 3 ALT 236

³ (2016) 3 ALD 658

“Even sub-rule (3) of Rule 14 of Order VII of CPC provides for production of documents with the leave of the Court at the hearing of the suit. But, when the evidence of the parties was completed and the suit is coming up for arguments, though technically speaking, the hearing of the suit can be called as not completed, it is not the intendment of the sub-rule to grant leave to a party to file the documents before commencement of arguments. Further, the affidavits filed in support of the applications do not indicate any justifiable reason for accepting the said documents and recalling the witnesses after conclusion of trial. The amendments to the Code of Civil Procedure were made in order to speed up the process of disposal of cases and if this type of applications are allowed, it would go against the spirit of the scheme of the Code of Civil Procedure.”

11) Apart from that it is also to be seen that though the petitioner wanted the Court to receive the possession certificate issued by the Tahsildar, Sakinetipalli, but he has not made any request to the Court for summoning any person from the office of the Tahsildar, to get the document marked. It is well established that the document cannot be marked through a stranger or a person un-connected with the issuance of the said document. Learned counsel for the petitioner fairly states that such an application was made.

12) For the aforesaid reasons, having regard to the fact that the case is posted for arguments and in view of the judgment of this Court in Lakshmi Priya case (3 supra), I see no grounds to interfere with the order under challenge.

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

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

JUSTICE C.PRAVEEN KUMAR

29.12.2017
gkv

