

HON' BLE SRI JUSTICE C.PRAVEEN KUMAR

CIVIL REVISION PETITION Nos. 5508, 5509 & 5515 of 2017

COMMON ORDER:

- 1) C.R.P.No.5508 of 2017 is filed, against the order dated 11.09.2017, passed in I.A.No.1163 of 2017 in O.S.No.33 of 2006 on the file of the III Additional District Judge, Tirupati, wherein an application filed under Order XVI Rules 1 and 6 and Section 151 of C.P.C. to issue summons to the Tahsildar, Tirupathi Urban for production of 10-1 account and No.2 adangal for the period from 1404 Fasli till date in respect of T.S.No.20, Kapilatheertham road, Tirupathi Village accounts, was dismissed.
- 2) C.R.P.No.5509 of 2017 is filed, against the order dated 11.09.2017, passed in I.A.No.1164 of 2017 in O.S.No.33 of 2006 on the file of the III Additional District Judge, Tirupati, wherein an application filed under Order VIII Rules 1-A (3) and Section 151 of C.P.C. to grant leave to the petitioners/defendants to receive documents, was dismissed.
- 3) C.R.P.No.5515 of 2017 is filed, against the order dated 11.09.2017, passed in I.A.No.1162 of 2017 in O.S.No.33 of 2006 on the file of the III Additional District Judge, Tirupati, wherein an application filed under Section 151 of C.P.C. to recall DW.3, for the purpose of marking documents was dismissed.

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

5) It is to be noted here that the respondents/plaintiffs filed the above suit in the year 2006 for declaration of title. After examination of the second petitioner as DW3, these three applications came to be filed to issue summons to the Tahsildar for production of certain documents; to grant leave to receive the documents; and also to recall DW-3 to speak with regard to the contents of the said documents. All the three applications came to be dismissed. Challenging the same, the present Civil Revision Petitions came to be filed.

6) Before proceeding further, it would be appropriate to extract the Rule 129 (1) and (2) of C.R.P., which reads as under:

“129. Production of records in the custody of a Public Officer other than a court:-

- a. A summons for the production of records in the custody of a Public Officer other than a court shall be in Form No.23 and shall be addressed to the Head of the Office concerned and in the case of a summons to a District Registrar or a Sub-Registrar of Assurances, it shall be addressed to the Registrar or Sub-Registrar in whose office, or sub-office, as the case may be, the required records are kept.

Provided that, where the summons is for the production of village accounts, including field measurement books, such summons shall be addressed to the Tahsildar or the Deputy Tahsildar in independent charge as the case may be.

Provided further that when the summons is for production of records in the custody of high dignitaries like the Speaker of the Lok-Sabha or State Legislative Council etc., the summons shall be in the form of a letter of request in Form No.23-A.

- b. Every application for such summons shall made by an affidavit setting out (1) the document or documents the production of which is required; (2) the relevancy of the document or documents; and (3) in cases where the production of a certified copy would answer the purpose, whether application was made to the proper officer for a certified copy or copies and the result of such application.
- c. No court shall issue such summons unless it considers the production of the original necessary or is satisfied that the application for a certified copy has been duly made and has not been granted. The court shall in every case record its reasons in writing and shall require the applicant to deposit in court, before the summons are issued, to abide by the order of the court, such sum as it may consider necessary to meet the estimated cost of making a copy of the document when produced.”

7) Rule 129 (1) of Civil Rules of Practice, deals with a situation where documents are sought to be summoned from the custody of the Public Officer otherthan the Court. Proviso to the said Rule states that where the production relates to Village Accounts, including Field Measurement Book, summons shall be addressed to Tahsildar or Deputy Tahsildar. Rule 129 (2) of the Civil Rules of Practice prescribes the procedure to be followed for summoning the documents. Rule 129 (3) states that an application for issuance of summon shall be by an affidavit setting out; (a)

documents which are required, (b) relevancy of the documents (c) in cases where production of a certified copy would answer the purpose, whether the application was made before the officer for a certified copy or copies.

8) Under Sub-rule (3) of Rule 129 of Civil Rules of Practice, no Court shall issue summons unless it considers the production of the original document is necessary or is satisfied that the application for a certified copy has been duly made and has not been granted.

9) It is to be noted that under sub-rule 2 of Rule 129 of Civil Rules of Practice and Circular orders, 1980, three conditions are to be satisfied namely (1) that the document/documents the production of which is required shall be set out in the affidavit; (2) that the relevancy of the document/documents shall be explained in the affidavit; and (3) That in cases where the production of a certified copy would answer the purpose, whether application was made to the proper officer and the result of such application shall also be indicated in the affidavit.

10) As seen from the record, no order rejecting the request of the petitioners for issuance of certified copies of the 10-1 Account and No.2 adangal for the period from 1404 Fasli till date in respect of TS No.20, Kapilatheertham Road, Tirupati Village accounts, is placed before the competent authority. Apart from that the averments in the written statement does not anywhere indicate that the suit property is in the name of Andalamma. It is

also to be noted here that the application to recall DW.3 to speak about the contents of the Adangal cannot be accepted, for the reason that DW.3 is not competent person to speak to the contents of the Adangal which are maintained by the Revenue Department.

11) Having regard to the above and since the suit is of the year 2006 which is now coming up for arguments I see no grounds to grant the reliefs as sought for.

12) Accordingly, all the Civil Revision petitions are dismissed. There shall be no order as to costs. Miscellaneous Petitions pending, if any, pending shall stand closed.

JUSTICE C. PRAVEEN KUMAR

27.10.2017
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