

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

C.R.P.No.5545 of 2017

ORDER:

This Civil Revision Petition is filed assailing the order dt.15.09.2017 in I.A.No.921 of 2017 in O.S.No.229 of 2007 on the file of II Additional Junior Civil Judge, Tadepalligudem.

2. Petitioner is the plaintiff in the suit. The said suit was filed for declaration and for consequential injunction restraining the respondents from constructing a Kalyana Mandapam/Community Hall.

3. After the trial was concluded and the arguments of the counsel for petitioner were heard, petitioner filed application I.A.No.921 of 2017 seeking permission to file true copy of the layout plan.

4. In the affidavit filed in support of the said application, it is stated that after the arguments were addressed by her counsel in the Court below, there was discussion about the contentions of the defendant and that she then showed a xerox copy of the Layout Plan to her Advocate, that the Advocate told her that it was inadmissible, that she then traced out true copy of the Layout Plan and brought it to the knowledge of her Advocate, and that was why there was a delay in filing the same.

5. This application was opposed by the respondents stating that the petition was silent in whose custody the document was, when it came to light and the reason for not filing the same earlier. It was also contended that the said document was also not confronted to DW1.

6. The Court below accepted the objection of the respondents and dismissed the I.A. It observed that the Layout Plan is a nominal plan without mentioning measurements and it did not pertain to the survey number of the plaint schedule property. It also observed that permission to file document cannot be granted as a matter of course and the petitioner ought not to have filed it at the stage when the arguments on her side had already been advanced.

7. Assailing the same, this Revision is filed.

8. Though counsel for petitioner sought to contend that grave prejudice would be caused to her if the said document is not allowed to be received in evidence, I am of the opinion that petitioner had ample opportunity to produce the said document along with her plaint or at least before commencement of her evidence and no valid reason has been assigned for receiving the document, at the belated stage, after the arguments of the petitioner have also been concluded.

9. After the Civil Procedure Code, 1908 has been amended by the Civil Procedure (Amendment) Act, 1999 (Act 46 of 1999), with effect from 01.07.2002 introducing Order VII Rule 14 CPC, it is not permissible for documents to be produced by the plaintiff unless valid reasons are given why it would not have been filed along with the plaint. Grant of leave to file documents is not as a matter of course.

10. Therefore, I do not find any error of jurisdiction in the order passed by the Court below warranting interference by this Court under Article 227 of the Constitution of India.

11. Accordingly, this Civil Revision Petition is dismissed. No costs.

12. Consequently, miscellaneous petitions pending if any shall stand closed.

M.S.RAMACHANDRA RAO, J

23rd October, 2017.

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