

THE HON' BLE DR. JUSTICE B. SIVA SANKARA RAO

CIVIL REVISION PETITION No.6763 OF 2017

ORDER:

The revision is maintained by the defendant as respondent to I.A.No.800 of 2017 in the pending suit O.S.No.61 of 2013 against the cryptic order allowing the receiving of the late filing of the document in question under Order VII Rule 14(3) r/w 151 C.P.C. by the plaintiff/ petitioner.

A detailed counter is filed by the defendant/ respondent opposing the petition mainly with the contention of the document in question sought to be received is irrelevant and inadmissible and cannot have any bearing to the issue in question.

The lower Court by the cryptic order stated as heard and perused the record and in the circumstances stated by the petitioner, I.A. is allowed and the document is received by the Court.

The crux required in receiving of a belated filing of a document by according leave by the Court is if at all explained the non-filing of the document along with the pleadings as contemplated by the provision and what is the explanation for the belated filing. Whether such contingencies are pleaded in the affidavit petition to receive the documents or not is main criteria also to consider with reference to the counter contest of the respondent/ defendant as the case may be. Thus, the impugned order of the lower Court is outcome of non-application of mind and not even reflecting what is the petition and for what purpose and with reference to what provision, it is filed and what is the basic contest of the other side and how the Court chosen to allow the petition if not to dismiss.

Having regard to the above, the impugned order of the lower can be said unsustainable. However, even by setting aside the order and remitting back the matter to the lower Court for giving a fresh disposal, it is nothing but lending life to the application for the reasons that in the detailed counter filed mainly saying the document in question is irrelevant and inadmissible, it is not even a case of the document in question is a subsequent fabrication or forgery and thereby, it cannot be received for supposed to have been filed with the pleading and not filed as contemplated by Order VII Rule 14(1) or (2) if at all in existing and if not in custody as to with whom by describing in a list to be appended regarding the documents. When relevancy and admissibility are the matters to be decided at the time of exhibiting the document, if not to postpone with reference to the expression of the Apex Court in *Bipin Shantilal Panchal v. State of Gujrat*¹, there is no need of any practical purpose by setting aside the order and remanding back to give fresh disposal, but for in disposal of the very revision, to the extent of confirming receiving of document though otherwise the order is unsustainable for want of reasons. However, by left open the objection regarding the admissibility and relevancy besides proof if any to raise for the court to decide as contemplated mainly by Section 136 of the Evidence Act and as laid down in *Bipin Shantilal Panchal* (supra).

Accordingly, the Civil Revision Petition is allowed.

Pending miscellaneous petitions, if any, shall stand closed. No costs.

DR. B. SIVA SANKARA RAO, J

Date: 04.12.2017
pab

¹ 1996 SCC (1) 718