

HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

C.R.P. No.102 OF 2018

ORDER:

This petition is filed under Article 227 of the Constitution of India challenging the order dated 15.11.2017 passed in I.A.No.688 of 2017 in O.S.No.116 of 2014 by the Principal Senior Civil Judge, Gajuwaka negating the relief under Order VIII Rule 1A(3) C.P.C. on the ground that the reason assigned by the petitioner is not satisfied to receive the documents set out in the list on his behalf.

The petitioner filed petition alleging that the respondents filed suit for grant of perpetual injunction restraining him from interfering with the peaceful possession and enjoyment of the property and in the written statement he referred certain documents in support of his claim. But learned counsel for the petitioner did not file the documents filed along with the petition. Therefore, the petitioner did not comply with the requirement under Order VIII Rule 1A (1) and (2) C.P.C. and sought for leave of the Court to file documents set out in the list. But the Court below dismissed the petition on the ground that the reason assigned by the petitioner is not satisfactory.

Aggrieved by the impugned order, the present revision petition is filed on the ground that even the petitioner specifically pleaded in the written statement about the purchase of the property by the 1st defendant and the number of documents was also mentioned in the written statement. But the Court below did not consider the reason assigned by the petitioner in proper perspective and committed error.

During hearing, learned counsel for the petitioner reiterated the contentions raised in the revision. None appeared for the respondents though notices served and proof of service is filed.

In para 10 of the written statement, the petitioner contended that he purchased the house site in a lay out being part of the land of Plot Bearing No.21, measuring 363 sq. yards from one Varanasi Venkatalakshmi by registered Sale Deed Bearing No.14891 of 1984 and another 379 sq. yards from Boddapati Parvathti Devi by registered Sale Deed Document No.14895 of 1984 in the same layout, which is other part of Plot No.21. The petitioner also referred several transactions having purchased the property under different documents. But those documents were not filed in compliance of requirement under Order VIII Rule 1A(1) and (2) C.P.C. There is a reference for production of documents to prove those pleas raised by the defendant in the suit and it appears from the record that the counsel did not properly advised the petitioner to file those documents along with the written statement in compliance of Order VIII Rule 1A(1) and (2) C.P.C and thereby, the Court below committed an error in dismissing the petition. Clause 3 is an exception to Order VIII Rule 1A(1)(2) C.P.C. and the Court can exercise such discretionary power when the petitioner shown sufficient cause to file the documents along with list to receive the condoning contending delay in filing the documents. Therefore, the impugned order is liable to be set aside.

In the result, the civil revision petition is allowed setting aside the order dated 15.11.2017 passed in I.A.No.688 of 2017 in O.S.No.116 of 2014 by the Principal Senior Civil Judge, Gajuwaka

while directing the Principal Senior Civil Judge, Gajuwaka to receive the documents set out in the list annexed to the petition as they were already referred in the written statement and they are only documents relied upon by the petitioner/defendant. No order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

M.SATYANARAYANA MURTHY,J

01.11.2018
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