

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CIVIL REVISION PETITION No.4457 OF 2017

ORDER:

This Civil Revision Petition is filed under Article 227 of the Constitution of India assailing the order dated 25.07.2017 passed in I.A.No.284 of 2017 in O.S.No.27 of 2016 on the file of the Court of the I Additional Junior Civil Judge, Nellore.

2. Heard the learned counsel for the petitioner.

3. A perusal of the record reveals that the respondent filed O.S.No.27 of 2016 on the file of the Court of the I Additional Junior Civil Judge, Nellore, against the petitioner for perpetual injunction in respect of the suit schedule property. The petitioner filed written statement denying the claim of the respondent. While things stood thus, the petitioner filed I.A.No.284 of 2017, under Order VIII Rule 3 C.P.C., to receive the photostat copy of the agreement of sale and letters issued by the Sub-Registrar. The respondent filed a counter *inter alia* stating that the petitioner filing the petitions one after the other with an intention to drag on the proceedings. The trial Court, after affording a reasonable opportunity to both parties, dismissed the petition. Hence, the revision.

4. The point that arises for consideration in this revision is:

“Whether there is any illegality, irregularity or impropriety in the impugned order?”

5. It is an admitted fact that the respondent filed O.S.No.27 of 2016 for perpetual injunction restraining the petitioner from

interfering with the suit schedule property. After closure of both sides evidence, the trial Court posted the matter for arguments. At that stage, the petitioner filed the present interlocutory application to receive the photostat copy of the agreement of sale and letters issued by the Sub-Registrar. A party to the proceedings, who wants to adduce secondary evidence, ought to have filed an application seeking permission of the Court to that effect. It is not in dispute that the petitioner did not take any steps seeking permission of the Court to adduce the secondary evidence. A perusal of the record reveals that at the instance of the petitioner, the trial Court reopened the matter on 08.12.2016, 06.01.2017, 27.01.2017 and 12.06.2017. The fact remains that the petitioner filed petitions four times for reopening of the matter at the stage of arguments. The affidavit filed in support of the petition before the trial Court is conspicuously silent with regard to relevancy of documents sought to be received. There is no mention in the affidavit with regard to originals of the documents sought to be received. The trial Court dismissed the petition on the ground that the petitioner has not laid any foundation in the written statement with regard to these documents. The trial Court has assigned reasons much less cogent and valid reasons while dismissing the petition. I am fully endorsing with the findings recorded by the trial Court. There is no illegality, irregularity or impropriety in the order of the trial Court warranting interference of this Court while exercising the jurisdiction under Article 227 of the Constitution of India.

6. In the result, the Civil Revision Petition is dismissed. There shall be no order as to costs.

7. Consequently, Miscellaneous Petitions, if any, pending in this Civil Revision Petition shall stand closed.

T.SUNIL CHOWDARY, J

Date: 29.08.2018
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