

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CIVIL REVISION PETITION No.964 OF 2011

ORDER:

Heard Sri V.S.R. Anjaneyulu, learned counsel for the petitioner
- claim petitioner, and Ms.G. Padmavathi Srinivas, learned counsel
representing Sri V.V.L.N. Sarma, learned counsel for respondent No.1
- Decree Holder.

2. The revision petitioner, in fact, filed an application in E.A. No.256 of 2007 under Order XXI, Rule 58 of the Code of Civil Procedure, 1908 (for short 'Code') in E.P. No.58 of 2007 in O.S. No.116 of 2005 on the file of the Additional Senior Civil Judge, Tenali, at the stage of his examination, and after completion of his evidence, on his request, it was reopened and at that stage, he intended to file certain documents, which are registered sale deeds, and moved an application i.e., E.A. No.296 of 2010 under Order VII, Rule 14 of the Code. It was resisted by respondent No.1 - Decree Holder.

3. The Executing Court observing that though, the Advocate-Commissioner was appointed and has filed report, but the revision petitioner - claim petitioner did not even examine the Advocate Commissioner from 08.09.2010 onwards till the date on which the present order was passed, and kept E.A. No.256 of 2007 pending, and opining that it was only to prolong the matter and to keep the claim petition E.A.No.256 of 2007 pending for some more time, rejected the

request dismissing the application, and also recording that there are no *bona fides* and tenable grounds to permit the petitioner to file the petition to receive the documents.

4. The learned counsel for the revision petitioner would submit that respondent No.2 - judgment debtor has no right or interest over the property mortgaged and the real owner is the revision petitioner - claim petitioner. In that direction, while in witness box, he has already exhibited certain documents, but, however, could not secure or procure the link documents to decide his source of title and, therefore, he intended to exhibit them by filing the same, and that was the reason why E.A. No.296 of 2010 was filed. The learned counsel also would submit that the revision petitioner - claim petitioner's intention was not to protract the litigation, but only to establish his right over the mortgaged property.

5. The learned counsel for respondent No.1 - Decree Holder, of course, sought time. However, in view of the submission made by the learned counsel for the revision petitioner that earlier, the office of the Registry has endorsed on the docket-sheet of the present proceedings recording as 'partly allowed, no costs', and also having regard to the significance of the documentary evidence that is to be adduced now in reaching effectual and complete justice, the present C.R.P. requires to be allowed revising the order passed by the trial Court which is under challenge.

6. Therefore, to the extent of receiving and marking the registered sale deeds and registered mortgage deed, I.A. No.296 of 2010 stands allowed.

7. Accordingly, the present Civil Revision Petition is allowed.
No order as to costs.

As a sequel thereto, miscellaneous petitions, if any, pending in the present revision, stand closed.

March 21, 2018.
Mgr

A. SHANKAR NARAYANA, J

