

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

C.R.P.Nos.1083 and 3552 of 2018

COMMON ORDER:

Since these two revisions arise out of one suit filed by the same petitioner, this Court deems it appropriate to dispose of the same by this common order.

2. Defendant No.2 in O.S.No.129 of 2011 on the file of the Principal Junior Civil Judge, Adoni, Kurnool district is petitioner in both the C.R.Ps. filed under Article 227 of the Constitution of India.

3. When the above mentioned suit for partition stood posted for arguments, petitioner herein filed I.A.No.1398 of 2017 under Order 16 Rules 1 and 5 read with Section 151 of CPC, praying the Court below to issue summons to the witnesses mentioned in the said application. The learned Principal Junior Civil Judge, Adoni by way of an order dated 14.12.2017, allowed the said application and directed the petitioner to produce the witnesses mentioned in the petition on 18.12.2017 while observing that in the event of non-production, petition stood dismissed and no further time would be granted.

4. Admittedly, according to the petitioner, on 18.12.2017, he could produce one Sri Satyanrayana C.Mahajan S/o Dr.Mahajan and he was examined, but Sri P.Virupaksha Goud who was also cited in the petition, did not come forward to give evidence on the ground that he was threatened by the otherside. On the same day itself i.e. 18.12.2017, learned counsel for the petitioner filed a memo before the Court below, requesting to issue summons

to the second witness in the petition i.e. Sri Virupaksha Goud for giving evidence. The learned Judge returned the same by way of an endorsement dated 18.12.2017 and observed as follows:

“In I.A.No.1398/17 this Court has directed the petitioner/D2 to produce the proposed witness mentioned in the petition on 18.12.2017 failing which petition stand dismissed and also mention no further time will be granted. Hence again issuing of summons to proposed witnesses does not arise. Hence return”.

5. According to the petitioner, the evidence of Sri P.Virupaksha Goud is highly essential to prove the case of the petitioner. It is further contended by the learned counsel for the petitioner that having regard to the nature of relief in the suit, the learned Judge ought to have given an opportunity to the petitioner by issuing summons to the said witness.

6. It is not in dispute that the suit is posted for arguments and the suit is of the year 2011. Obviously, taking into consideration the nature of relief in the suit, the learned Principal Junior Civil Judge directed the petitioner to produce the witness on 18.12.2017 by incorporating in the impugned order that in the event of non-production, the petition stands dismissed. Therefore, this Court does not find any valid reason to consider the request of the petitioner herein.

7. Accordingly, both the C.R.Ps. are dismissed. As a sequel, the miscellaneous petitions, if any, shall stand closed. There shall be no order as to costs.

A.V.SESHA SAI, J

Date: 20.7.2018
DA

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

C.R.P.Nos.1083 and 3552 of 2018



20.7.2018

DA