

HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

CIVIL REVISION PETITION No.1440 of 2018

ORDER :

This Civil Revision Petition, under Article 227 of the Constitution of India, is preferred by the petitioners/defendants against the order and decree dated 22.01.2018 in I.A.No.70 of 2017 in O.S.No.24 of 2014 passed by the Additional Junior Civil Judge, Sompeta, Srikakulam District, allowing the application filed by the respondent/plaintiff under Order VIII, Rule 1(iii) of C.P.C., r/w. Section 151 of C.P.C., seeking permission to file certain documents, receive the same and mark them as exhibits on her behalf.

Petitioners are the defendants and respondent is the plaintiff in the suit O.S.No.24 of 2014. For the sake of convenience, the parties are referred to as they were arrayed in the suit before the Court below.

The plaintiff filed aforesaid suit for permanent injunction against the defendants in respect of the suit schedule property. In the said suit, she filed I.A.No.70 of 2017 under Order VIII, Rule 1(iii) of C.P.C., r/w. Section 151 of C.P.C., seeking permission to file certain documents, receive the same and mark them as exhibits on her behalf. After hearing both sides and considering the material on record,

the Court below allowed the said application, by order dated 22.01.2018. Aggrieved by the same, the defendants have filed the present Civil Revision Petition.

Heard Sri K. Manik Prabhu, learned counsel for the petitioners/defendants and perused the material on record.

Learned counsel for the petitioners/defendants submitted that the plaintiff has to file all the documents relied upon by her along with the plaint and, in case, if she fails to file the relevant documents along with the plaint, she has to give reasons why she could not file those documents. In support of his contention, learned counsel for the petitioners/defendants placed reliance on the provision under Order VII, Rule 14 of C.P.C., and submitted that the Court below has not considered the said provision, which is relevant, and passed orders permitting the respondent/plaintiff to file the documents after a lapse of three years, that too at the stage of trial.

For better appreciation, Order VII, Rule 14 of C.P.C., is extracted below:

“14. Production of document on which plaintiff sues or relies :

(1) Where a plaintiff sues upon a document or relies upon a document in his possession or power in support of his claim, he shall enter such documents in a list, and shall produce it in Court when the plaint is presented by him, and shall, at the same time deliver the document and a copy thereof, to be filed with the plaint.

(2) Where any such document is not in the possession or power of the plaintiff, he shall, wherever possible, state in whose possession or power it is.

(3) A document which ought to be produced in Court by the plaintiff when the plaint is presented, or to be entered in the list to be added or annexed to the plaint but is not produced or entered accordingly, shall not without the leave of the Court, be received in evidence on his behalf at the hearing of the suit.

(4) Nothing in this rule shall apply to document produced for the cross-examination of the plaintiffs witnesses, or, handed over to a witness merely to refresh his memory.”

As a matter of fact, as per the aforesaid provision, the plaintiff has to file all the documents relied upon by her along with the plaint. In case, if the documents relied upon by her are not in her possession or power, she has to state where and in whose possession or power the said documents are? Without leave of the Court, the documents sought to be marked cannot be received in evidence on behalf of the plaintiff.

It is pertinent to note that the documents sought to be marked by the plaintiff are as follows:

1. Pattadar Pass Book (E-Pass Book) No.016331010000005 issued by Mandal Revenue Officer, Mandasa.
2. Form – 1B (ROR) issued by Mandal Revenue Officer, Mandasa, through Meeseva on 12.06.2017.
3. Adangal issued by Mandal Revenue Officer, Mandasa, through Meeseva on 12.06.2017.
4. Land Revenue Receipt dated 19.05.2017 for an amount of Rs.258/- for the two Faslies i.e., 1425, 1426.
5. Proceedings of Sri Maha Raja of Manjusha dated 18.11.1942.

Admittedly, except the proceedings of Sri Maha Raja of Manjusha dated 18.11.1942, the other documents sought to be marked in this case are all Revenue records.

It is pertinent to note that the Court below has made a clear and categorical observation that admissibility of a document can be seen at the time of appreciation of evidence. Since the document Nos.1 to 4 are all Revenue records, their admissibility and authenticity can be disputed by the defendants at the time of marking of those documents in evidence. As far as document No.5 i.e., proceedings of Sri Maha Raja of Manjusha dated 18.11.1942 is concerned, the burden is on the plaintiff to prove that the said document is genuine and the petitioners/defendants would get an opportunity to disprove the same, if it is received in evidence, subject to admissibility. Therefore, in the light of the provision under Order VII, Rule 14 C.P.C., the aforesaid documents sought to be marked by the plaintiff can be received in evidence as rightly done by the Court below by receiving those documents in evidence.

In view of the above, the impugned order dated 22.01.2018 passed by the Court below does not suffer from any illegality or irregularity warranting interference by this Court. However, the petitioners/defendants are given liberty to raise their contentions before the Court below with regard

to admissibility of the said documents at the time of marking of the same.

With the above observation, the Civil Revision Petition is dismissed, at the stage of admission. No order as to costs.

As a sequel, miscellaneous petitions pending, if any, shall stand closed.

GUDISEVA SHYAM PRASAD, J

09.03.2018.
Msr



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