

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CIVIL REVISION PETITION Nos.3279, 3280 AND 4930 OF 2013

COMMON ORDER:

All these three Civil Revision Petitions are filed under Article 227 of the Constitution of India by the revision petitioners questioning the order, dated 19.06.2013, passed in I.A. Nos.372, 373 and 380 of 2013 in O.S. No.40 of 2010 by the learned Principal Junior Civil Judge, Chittoor, whereby and where-under, the Court below refused to accede to the reliefs of reopening the suit filed under Section 151 of the Code of Civil Procedure, 1908 (for short 'Code'), for the purpose of marking documents filed along with I.A. No.373 of 2013 under Order VII, Rule 14 (3) of the Code and recalling PW.1 to mark those documents filed under Order XVIII, Rule 17 of the Code by the petitioners - plaintiffs.

2. The ground on which the Court below rejected the requests was that there was no plea touching the documents sought to be introduced and, therefore, without there-being any plea, no documents can be filed to substantiate the case of the petitioners. The second ground is, such applications were filed at the stage of arguments and, therefore, they are intended to protract the litigation.

3. The claim of the petitioners was that their maternal grandfather, who is respondent No.1, owned and possessed ancestral property and by selling the same and utilizing the sale proceeds,

purchased the suit schedule property and, therefore, it constitutes ancestral property and to prove the same, they obtained registration copies of the said documents recently and they are essential to substantiate their case.

4. The said request is resisted to by the respondents denying such allegation and also contending that when the proposed documents were not referred to in the plaint, there was no basis to receive the documents and there was no explanation for the delay in filing the documents as contemplated under Order VII of the Code and, therefore, sought to dismiss the applications.

5. The Court below having heard the submissions made by both sides, observing that such a plea was not at all taken in the plaint, and that too at the stage of arguments, the petitioners are coming up with the application with the plea of obtaining such documents recently dismissed the petitions.

6. The learned counsel for the petitioners, Sri G. Manohar, would submit that the Court below not only shut the doors of proving a particular fact by filing the documents to substantiate the stand, but it went wrong in rejecting the request.

7. Per contra, the learned counsel, Sri V.S.R. Anjaneyulu, would submit that since there was no plea in the plaint, the documents

cannot be received and, thus, supports the orders passed by the Court below.

8. When the counter affidavit is filed by the respondents resisting the request on the main ground that no plea at all was put forth by the petitioners in relation to the stand now taken basing on the certified copies of the documents which the petitioners noticed and filed, the petitioners were obligated with the duty to file a rejoinder affidavit refuting such allegations, in case really a plea was raised in the plaint, which was not done by the petitioners. Besides the same, the petitioners have also not come up with a petition to amend the plaint to introduce such a plea. In such an event, certainly, what has been held by the Court below cannot be faulted as the Law is well-settled that when there is no plea, the party cannot be permitted to adduce evidence on the pleas not raised and even if allowed, these documents cannot be looked into. Hence, there is no merit in the present revisions.

9. Accordingly, all the Civil Revision Petitions are dismissed.
No order as to costs.

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

A. SHANKAR NARAYANA, J

April 17, 2018.
Mgr