

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CIVIL REVISION PETITION Nos. 3147 AND 3217 OF 2015

COMMON ORDER:

Civil Revision Petition Nos. 3147 and 3217 of 2015 under Article 227 of the Constitution of India are filed challenging the common order dated 29-06-2015 in I.A.Nos. 214 and 590 of 2015 in O.S.No. 74 of 2011 on the file of the Court of Principal Junior Civil Judge, Anantapuramu (for short, 'the Court below') respectively.

2. The respondent-plaintiff filed the abovementioned two applications under Order VII Rule 14 read with Section 151 of the Code of Civil Procedure (for short, 'C.P.C.') to receive the documents set out in the list *i.e.* 1-B Extract and Adangal Extract for the fasli 1424 for item No. 2 of suit schedule property by condoning the delay in filing the petition since he obtained the same recently and those documents are not available with him *earlier i.e.* at the time of filing the suit and therefore he could not file those documents along with the plaint and requested this Court to receive the same condoning the delay.

3. The petitioners-defendants filed counter affidavit denying material allegations *inter alia* contending that the documents at the stage of cross-examination of P.W.1 cannot be received by exercising power under Order VII Rule 14 (3) of C.P.C. and that they are not relevant for deciding the real controversy in view of the limited scope of trial in a suit for injunction simplicitor.

4. The Court below upon hearing both counsel allowed the petitions by the order under challenge.

5. Feeling aggrieved by the same, the present civil revision petitions are filed on the ground that when the suit is filed for injunction simplicitor, the Court below

has to decide whether the respondent-plaintiff was in possession and enjoyment of the property as on the date of filing the suit and that since the documents pertain to subsequent period, they are irrelevant and the same cannot be received by exercising power under Order VII Rule 14 (3) of C.P.C. The Court below did not consider the scope of trial in the suit for injunction simplicitor and the relevancy of those documents but received the same filed along with the petition relating to period anterior to filing of the suit and committed an error.

6. The respondent herein filed the petition under Section 151 of C.P.C. to condone the delay in filing the documents but this is unnecessary in view of amendment by Act 21 of 2002 to C.P.C. deleting the provisions for filing documents after framing issues. Earlier, there was a provision in C.P.C. for filing list of witnesses and documents within 14 days. After amendment, it was repealed. Therefore, there is no specific time to file documents. However, Order VII Rule 14 (1) of C.P.C. mandates the plaintiff to file all the documents along with the plaint entering those documents in the list and in case they are not available with the plaintiff, the plaintiff shall wherever possible state in whose possession or power they are. 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. Thus, it means that the plaintiff is entitled to introduce those documents after obtaining leave of the Court. In the case on hand, the documents ought to be produced are revenue records *i.e.* 1-B Extract and Adangal Extract for Fasli 1424 which is corresponding to the year 2014 whereas the suit was filed in the year 2011. Therefore, the second document is not helpful to the respondent to prove his possession as on the date of filing the suit.

The scope of trial in a suit for bare injunction is limited and the Court is required to record a finding as to whether the plaintiff is in possession and enjoyment of the property as on the date of filing the suit and whether the defendants made any attempt to infringe or invade the legal right or obligation of the plaintiff but not based on subsequent events. However, at the time of receiving documents by exercising power under Order VII Rule 14 (3) of C.P.C., admissibility and relevancy of such documents is irrelevant. If the petitioner satisfied that he was prevented by sufficient cause in complying the requirements under Order VII Rules 14 (1) and 14 (2) of C.P.C., the Court can receive the documents set out in the list subject to proof and relevancy. Receiving documents by the Court below is not an error but such receipt of documents must be subject to relevancy and admissibility. Therefore, the Court below is directed to decide relevancy and admissibility of the said documents at the time of their marking. Thus, there is no error in the order passed by the Court below warranting interference of this Court while exercising jurisdiction under Article 227 of the Constitution of India.

7. In the result, the revision petitions are dismissed confirming the order of the Court below while directing it to decide relevancy and admissibility of the documents at the time of marking. Pending miscellaneous petitions, if any, in these civil revision petitions shall stand dismissed in consequence.

Date: 01-02-2018.
JSK

M.SATYANARAYANA MURTHY, J.