

HON'BLE SRI JUSTICE S.V. BHATT

C.R.P.No.2106 OF 2018

ORDER:

The plaintiff in O.S.No.41 of 2011 in the Court of the Senior Civil Judge, Peddapalli is the revision petitioner.

The plaintiff filed an application under Order VII Rule 14 CPC seeking leave to file the documents described therein.

The learned trial Judge dismissed the application by recording the following findings:

"I have considered the fact and circumstances of the case. The suit was filed in the year 2011 and the evidence of the parties is recorded. The parties have set up their respective cases in their pleadings and also in the evidence adduced by them. P.W.1 was recalled more than once to record his evidence and again the plaintiff has filed this petition to receive documents and two more petitions are filed to reopen the evidence and recall P.W.1 again under Section 151, C.P.C and under Order 18 rule 17 CPC respectively. The above two petitions are numbered as IA.No.159/2018 and 160/2018. All these petitions are disposed of simultaneously since the very purpose of filing IA.No.159/2018 and 160/2018 is to mark the documents filed with this petition.

In the affidavit there is no whisper as to why the plaintiff has not filed these documents and not even a single word is stated in the affidavit of the petitioner for not filing the documents along with the plaint. The Hon'ble Supreme Court in M/s Bagai Constructions referred to the above has stated that the plaintiff shall file all the documents with the plaint and more particularly the plaintiff shall not be allowed to file the documents to over come the lacunae, plaint pleadings and evidence. The law is clear that the plaintiff has to file the documents along with the plaint and only in exceptional circumstances he can be permitted to file the documents at a later stage. In this case on hand when the suit has reached almost to a culminating point the plaintiff has filed this petition without explaining as to why he could not file these documents earlier.

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All the above judgments categorically indicate that the plaintiff cannot be allowed to file the documents at a belated stage and there is no justification in this case to allow the petitioner/plaintiff to file this petition for receiving of the documents.

Therefore, this petition is dismissed with costs. Since this petition is dismissed, no purpose will be served by allowing I.A.No.159/2018 and 160/2018".

The jurisdiction of this Court under Article 227 of the Constitution of India is available subject to the following grounds.

There is no doubt that the trial Court has jurisdiction to summon a party as witness of a party to the *lis*. Had it been a situation where the jurisdiction and discretion are exercised for the first time on the pleas put forward by parties, then this Court could have examined the issue. It is well settled that the scope of judicial review under Article 227 of the Constitution of India is limited. The trial Court exercises discretion, the term 'discretion' has more than one meaning and definitely means different things in different contexts. Discretion means the power to choose between two or more causes of action, each of which is thought of as permissible. The finding recorded in the order under challenge falls within the correct path chosen by the trial Court.

The plaintiff could not convince this Court for exercising jurisdiction under Article 227 of the Constitution of India. This Court is in agreement with the findings recorded by the trial Court. Except generally contending that the order is illegal and amounts to refusing to exercise the jurisdiction conferred on the trial Court, no particular aspect either is brought or elaborated for consideration.

The revision fails and is, accordingly, dismissed. The learned trial Judge considers disposing of the suit as expeditiously as possible preferably within two months from the date of receipt of a copy of this order. There shall be no order as to costs.

Pending miscellaneous petitions, if any, stand closed.

S.V.BHATT, J

21st August, 2018
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