

THE HON' BLE SRI JUSTICE C. PRAVEEN KUMAR

CIVIL REVISION PETITION Nos.2379 and 2387 of 2018

COMMON ORDER:

1) C.R.P.No.2379 of 2018 is filed, aggrieved by the order dated 13.03.2018 passed in I.A.No.196 of 2018 in O.S.No.275 of 2014 on the file of the Senior Civil Judge, Peddapuram, wherein an application under Order VIII Rule 1 (A) read with Section 151 of C.P.C., to receive the documents, was rejected.

2) C.R.P.No.2387 of 2018 is filed, aggrieved by the order dated 13.03.2018 passed in I.A.No.195 of 2018 in O.S.No.275 of 2014 on the file of the Senior Civil Judge, Peddapuram, wherein an application under Order 18 Rule 17 of C.P.C., to recall DW.1 for the purpose of recording documents, was rejected.

3) Since the issue involved in both the Civil Revision Petitions filed under Article 227 of the Constitution of India are interconnected, they are being disposed of by this common order.

4) The facts in issue are as under:

The respondent herein filed O.S.No.275 of 2014 for recovery of money. The averments in the affidavit filed in

support of the petition would show that the plaintiff examined herself as PW.1 and in her cross-examination she stated that 10 years prior to her examination, she received the amount in land acquisition proceedings and she lent an amount of Rs.5,00,000/- to the petitioner from the said amount. Hence, the petitioner made an application before the Deputy Tahsildar, Prathipadu, under Right to Information Act, requesting him to furnish the particulars of the land standing in the name of the respondent-plaintiff. The Deputy Tahsildar, Prathipadu, replied that no land which stands in the name of the respondent was acquired and now land admeasuring Ac.0.17 cents in Sy.No.153/2A of Prathipadu Village stands in the name of the respondent-plaintiff. In order to prove that the respondent has no capacity to lent such huge amount, the petitioner filed the above two applications, for recalling of DW.1 and for receiving the documents by condoning the delay.

5) Respondent-plaintiff filed counter contending that the Deputy Tahsildar is not the competent authority under the Land Acquisition Act to acquire the lands and the reply issued by him is without any authority. It is further stated that since PWs.1 to 3 were examined on behalf of the plaintiff and DWs.1 and 2 were examined on behalf of the defendant, the above applications are not maintainable at this stage. The

present petitions are filed at a belated stage only to fill up the lacunas in his case.

6) After considering the material on record, the trial Court dismissed both the petitions. Aggrieved by the same, the present revision petitions are filed.

7) Learned counsel for the petitioner would submit that recently the petitioner secured certain documents, which are very crucial to prove his case namely that the plaintiff has no capacity to lend such a huge amount.

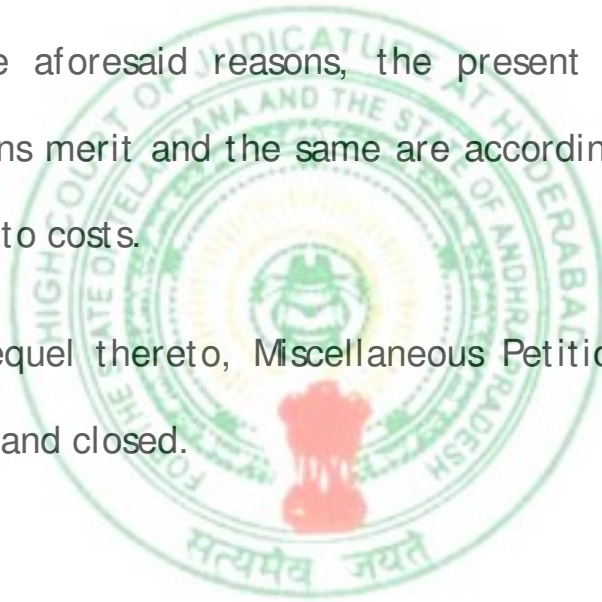
8) A perusal of the affidavit filed in support of I.A. would show that the petitioner herein sought marking of reply dated 16.02.2018 issued by the Deputy Tahsildar, Prathipadu in Ref.A/ 48/ 2018 and Adangal for Land in Sy.No.153/ 2A of Prathipadu, dated 07.02.2018. When the suit for recovery of money based on a pronote, the proper approach for the petitioner to disprove the theory of loan taken by him from the plaintiff would be through some other means and not by way of getting these documents marked. Even if the said documents which sought to be marked are relevant for deciding the case, but the same cannot be marked through DW.1. The documents are issued by an authority and it is they, who have to speak about the authenticity, genuinity and reliability about the said documents. Even if DW.1 is

recalled, he is not competent enough to speak to the contents of the documents. Apart from that merely because the documents are received, does not by itself lead to an inference that the plaintiff has no source of income.

9) Therefore, in the circumstances of the case, I see no reason to receive the documents mentioned above and to recall DW1, for the purpose of marking those documents, who is not competent to speak to the contents of the documents.

10) For the aforesaid reasons, the present Civil Revision Petitions sans merit and the same are accordingly dismissed. No order as to costs.

11) As a sequel thereto, Miscellaneous Petitions pending if any, shall stand closed.



JUSTICE C. PRAVEEN KUMAR

20.09.2018
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