

THE HON'BLE SRI JUSTICE S.V.BHATT

C.R.P.No.2799 of 2018

ORDER:

Heard Mr.K.Venumadhav for revision petitioner.

Defendant No.3 in O.S.No.75 of 2011 is the revision petitioner. The revision petitioner filed I.A.No.812 of 2017 under Order 8 Rule 1-A(3) of Civil Procedure Code seeking leave of the Court to file the following documents.

“Intermediate certificate of the year 1990, certificate issued by Saraswathi Vidyaparishath Hyderabad dated 18.11.1981, certificate issued by Seraswathi Vidya Parishath dated 02.06.1987, Marks memo of VII class Common Examination Board dated 13.06.1981 issued by Headmaster, Zilla Parishath Secondary School, Palasa, Transfer Certificate issued by SKNR Govt. College Jagtial dated 22.05-1996, Residence Certificate issued MRO Jagtial dated 21.04.1996, Adhaar Card of Moth Sathish Kumar and Certificate issued by Panchayat Secretary Polasa dated 23.12.2017”

At this juncture, this Court prefers to advert to the circumstances which are stated to have necessitated the revision petitioner herein to file the instant application. The 1st respondent filed O.S.No.75 of 2011 against one Vallambatla Sathish resident of Palasa Village, Jagtial Mandal and District. The revision petitioner and respondent No.3 herein contested the genuineness of the parties impleaded in the suit. The objection raised is Vallambatla Sathish as per the understanding is a fictitious

description to find place in the array of defendants. The revision petitioner and respondent No.3 claim to have purchased the property through one Mothe Sathish. The present application is to receive the documents to prove the existence, education and identity of Mothe Sathish. The application is rejected by order under Revision.

This Court is of the view that the reasoning recorded by order under Revision is untenable for the failure on the part of revision petitioner to take steps when 1st defendant was set ex-parte is no reason to refuse to receive the documents referred in I.A.No.812 of 2017. The prayer under Order 8 Rule 1-A (3) of CPC is considered by referring to the requirement namely what is the reason for not filing the documents along with the written statement. In the case on hand, the documents for which the leave of the Court is sought are certainly not within the custody of the revision petitioner. This may be one aspect of the matter. However, this point even in favour of the revision petitioner may not result in setting aside the order under Revision and granting leave to the revision petitioner to file those documents. But, it is made clear that the revision petitioner/respondent No.3 herein if take steps to examine Mothe Sathish as one of the witnesses in the suit, the revision petitioner/respondent No.3 can take liberty as

provided by law for filing the documents through the witnesses.

By reserving the liberty as stated above, the Civil Revision Petition is dismissed. No order as to costs.

Miscellaneous petitions, if any, pending, shall stand closed.

Date: 01.10.2018
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S. V. BHATT, J

