

HON'BLE SRI JUSTICE S.V.BHATT

C.R.P. No.3724 OF 2018

ORDER:

Heard Mr.Mahender Reddy for petitioner and Mr.Avinash Reddy for respondent.

The defendant filed I.A. No.107 of 2018 under Order 8 Rule 1 (A) (3) of Civil Procedure Code seeking the leave of the Court to bring on record Pahanis for the years 1995-96; 1996-97; 1997-98 and original simple sale deed dated 27.06.1967 and simple Purokthunama dated 13.4.1983.

The trial Court through the order impugned in the revision petition to the extent of Pahanis accepted the prayer and the prayer to file documents dated 27.06.1967 and dated 13.04.1983 is rejected. The prayer rejecting to receive documents dated 27.06.1967 and dated 13.04.1983 is challenged in the present CRP.

Mr.Mahender Reddy contends that the grounds on which the trial Court rejected the prayer to bring on record the documents dated 27.06.1967 and 13.04.1983 prima facie suffer from illegality and also that this is not the stage at which the merits of the issue can be gone into. According to him, once leave is granted, as and when the documents are tendered in evidence, the contesting party could take objections and then these objections vis-à-vis legality, admissibility etc. could have been considered.

On the other hand Mr.Avinash Reddy contends that the rule on which the revision petitioner relies is completely inapplicable to the case on hand. Firstly, the revision petitioner has not reserved

any right on the plea vis-à-vis documents dated 27.06.1967 and 13.04.1983. Unless and until there is some foundation in the pleading, the leave is completely misconceived and secondly, any amount of evidence without pleading has its own value in final appreciation by the trial Court.

I have perused the record and noted the rival contentions. The learned trial Judge has adverted to survey numbers and extents while considering the prayer under Order 8 Rule 1 (A) (3) of CPC. This exercise ought to have been avoided. This Court is in agreement with the final conclusion of the trial Court in refusing to grant leave vis-à-vis these two documents and the order under revision hence is confirmed, however, liberty is granted to revision petitioner to work out the prayer in accordance with law vis-à-vis documents dated 27.06.1967 and 13.04.1983.

The C.R.P. is dismissed with the above observation.

Miscellaneous petitions pending, if any, shall stand closed.

Date: 01.10.2018
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S.V. BHATT, J