

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

C.R.P.No.492 of 2017

ORDER:

This revision petition is filed under Article 227 of the Constitution of India assailing the orders dated 17.10.2016 passed in I.A.No.90 of 2016 in O.S.No.274 of 2010 on the file of Additional Senior Civil Judge Court, Srikakulam.

2. Heard the learned counsel appearing for both the parties and perused the material available on record.

3. A perusal of the record reveals that the petitioner and respondents 5 to 8 filed O.S.No.274 of 2010 on the file of Additional Senior Civil Judge Court, Srikakulam, against the respondents 1 to 4 seeking declaration in respect of the suit schedule property, which is situated in T.S.No.269/7 of Srikakulam Town. Pending suit, the petitioner filed I.A.No.90 of 2016 under Order VII Rule 14 CPC to receive the document.

4. The respondents filed counter *inter alia* contending that the petition is not maintainable and liable to be dismissed.

5. The trial Court basing on the material available on record, dismissed the petition. Hence, the revision.

6. The point that arises for consideration is:

“Whether there is any illegality, irregularity or impropriety in the impugned order?”

7. Petitioner filed O.S.No.274 of 2010 seeking the relief of declaration in respect of suit schedule property, which is situated in T.S.No.269/7. The document filed by the petitioner relates to

some other property. There is no mention in the affidavit filed by the petitioner before the trial Court that the document in question relates to T.S.No.269/7 of Srikakulam Municipality. Even if the document is received, the same will not throw any light to resolve the controversy involved in the suit. The plaintiff may succeed or fail basing on the strength or weaknesses of his case. In a suit for declaration, the plaintiff is not entitled for the relief of declaration basing on the latches and lacunae, if any, on the part of the defendant. The trial Court in Para – 9 of the impugned order, made an observation that the proposed document pertains to some other T.S. number and not T.S.No.269/7. As observed earlier, even if the document is received, the same may not facilitate the Court to resolve the issue involved in the suit. The trial Court considered the material on record in right perspective and dismissed the petition. I am fully endorsing with the findings recorded by the trial Court. There is no illegality, irregularity or impropriety in the orders of the trial Court warranting interference of this Court, while exercising the jurisdiction under Article 227 of the Constitution of India. Hence, the petition is liable to be dismissed.

8. In the result, the Civil Revision Petition is dismissed. There is no order as to costs. As a sequel, miscellaneous petitions pending, if any, shall stand closed.

T.SUNIL CHOWDARY, J

Dt:21.12.2018

Rns

