

HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

C.R.P. No.548 OF 2017

ORDER:

This petition is filed under Article 227 of the Constitution of India challenging the propriety and legality of the order dated 07.12.2016 passed in I.A.No.842 of 2016 in O.S.No.678 of 2009 by the I Additional Senior Civil Judge, Warangal, Warangal District.

The petitioner filed petition under Order VII Rule 14(3) C.P.C. to receive the documents filed along with the petition i.e. original simple sale deed dated 07.03.1982 and original simple sale deed dated 09.06.1987 on the ground that the documents though referred in the plaint, he could not file along with the plaint as they were not available on the date of filing the plaint and that there are no latches in filing the documents, requested to receive the documents.

Respondent filed lengthy counter duly explaining the delay being caused by the petitioner from time to time and protracting the proceedings. The respondent also contended that the plaintiff ought to have filed documents along with the plaint itself, but no reason was mentioned as required under Order VII Rule 14 C.P.C. and in the absence of any explanation for not filing those documents for all the seven years, the delay cannot be condoned.

Upon hearing argument of both counsel, the Court below dismissed the petition on the ground that the documents sought to be introduced were not referred in the plaint and that there was no reference in para 4(c) of the plaint that the unregistered sale deed was executed on 09.06.1987, agreement of sale dated 07.03.1982. Thus, there is no reference of simple sale deed dated 09.06.1987 in the plaint at all and in the absence of any reference, the documents cannot be received.

According to Order VII Rule 14(1) C.P.C. where a plaintiff sues upon a document or relies upon document in his possession or power in support of his claim, he shall enter such documents in a list, and shall produce it in Court when the plaint is presented by him and shall, at the same time deliver the document and a copy thereof, to be filed with the plaint. Thus, it is clear from the Sub-section (1), the petitioner has to file documents along with the plaint, which are in possession of the plaintiff and copies thereof shall be delivered to the defendant. If for any reason where any such document is not in the possession or power of the plaintiff, he shall, wherever possible, state in whose possession or power it is; vide Sub Rule (2) of Order VII Rule 14 C.P.C. Sub Rule (3) is an exception to Sub Rules (1) and (2) of Order VII Rule 14 C.P.C. and according to it, a document which ought to be produced in Court by the plaintiff when the plaint is presented, or to be entered in the list to be added or annexed to the plaint but is not produced or entered accordingly, shall not, without the leave of the Court, be received in evidence on his behalf at the hearing of the suit. Therefore, with the leave of the Court, the document can be introduced at the time of hearing and the present petition is filed for grant of leave to file documents and requested to condone delay in filing the documents and receive the same.

It is clear from Order VII Rule 14 C.P.C that the Court can exercise power under Sub Rule (3) though Sub Rules 1 and 2 are not complied subject to recording its satisfaction that the petitioner was prevented by a reasonable cause, i.e the cause which is beyond his reasonable control in complying Sub Rules 1 and 2 of Order VII Rule 14 C.P.C.

The only reason assigned by the Court below is that the simple sale deed dated 19.06.1985 was allegedly executed, no such document is filed along with the petition and that the stamp paper bearing No.302 is

dated 09.06.1987. Hence, the reason recorded by the Court below in rejecting the relief is not tenable.

Learned counsel for the respondent mainly contended that the petitioner is able to protract the proceedings for one reason or the other and not tendering himself to be cross examined by the respondent's counsel. No doubt there is any amount of delay in prosecuting the proceedings that itself is not a ground to reject that he was prevented by a reasonable cause, which is beyond his control, the Court can exercise power, but the respondent can be compensated by granting costs. Therefore, the civil revision petition is liable to be allowed.

Accordingly, the civil revision petition is allowed setting aside the order dated 07.12.2018 passed in I.A.No.842 of 2016 in O.S.No.678 of 2009 by the I Additional Senior Civil Judge, Warangal, Warangal District and I.A.No.842 of 2016 is allowed directing the I Additional Senior Civil Judge, Warangal to receive the documents set out in the list on payment of costs of Rs.1,000/- to the respondent payable within a week from today by the petitioner before the Court below.

Pending miscellaneous petitions in the petition, if any, shall stand closed.

M.SATYANARAYANA MURTHY,J

23.10.2018

Note: issue c.c. in two days

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