

THE HON'BLE SRI JUSTICE N.BALAYOGI

C.R.P. No.961 of 2016

ORDER:

This revision under Section 115 of C.P.C. is filed seeking to set aside the orders of the VI Additional District Judge, Machilipatnam, Krishna District in dismissing I.A.No.406 of 2014 in A.S.No.58 of 2014.

2. The petitioner herein is the 5th defendant in the suit and the first respondent herein is the plaintiff. The contention of the petitioner is that the Court below grossly erred in dismissing I.A.No.406 of 2014 filed by the petitioner for return of documents i.e. Exs.B.19 to 21 as the said documents are required for the purpose of waiving of loan as well as to link up with the Adhar card. Earlier also, the petitioner filed similar applications before the trial Court on 26.07.2013 and 01.12.2014 vide G.L.Nos. 4220 and 2610 respectively, during pendency and after dismissal of the suit, but they were returned with certain objections. The suit filed by the first respondent herein was already dismissed on merits and though there are no valid and substantial grounds, he preferred the appeal in A.S.No.58 of 2014 only to drag on the matter. It is further contended that Exs.B.19 to 21 are very much essential for the petitioner for the purpose of waiver of agricultural loan and to link up the documents with the Adhar Card. The lower appellate Court ought not to have dismissed the I.A. as the documents sought to be returned are belonging to his children and that the same are filed only for observation of the Court.

3. On the other hand, the learned counsel appearing for the first respondent contended that that there are good chances of first respondent herein succeeding in the appeal and if the documents are returned, there is every possibility of petitioner alienating the property or creating loans by way of mortgage.

4. Now, the point that arises for consideration in this revision is:-

“Whether the documents as sought for can be returned to the petitioner?”

5. The first respondent herein filed the suit in O.S.No.69 of 1999 seeking declaration that he is the absolute owner of the suit schedule property and for recovery of possession of the same. The said suit was dismissed by the trial Court on 22.09.2014, against which, he filed A.S.No.58 of 2014 before the lower appellate Court.

6. It is an admitted fact that the documents Exs.B.19 to 21 are original sale deeds filed by the petitioner herein before the trial Court to substantiate his contention in the suit. Now, it is his grievance that those original documents are necessary for the purpose of waiving of agricultural loan under ‘Debt Waiver Scheme’ and also to link up with the Adhar Card. The suit was already dismissed by the trial Court and the appeal is pending. Even if the documents i.e. Exs.B.19 to 21 are returned to the petitioner herein, no prejudice will be caused to the defendants/respondents herein. If the lower appellate Court feels that those documents are necessary for consideration in the appeal, the petitioner can be insisted to produce those documents as and when required.

7. In such circumstances, I am of the considered view that the documents i.e. Exs.B.19 to 21 can be returned to the petitioner by substituting the same with the certified copies on condition of petitioner giving an undertaking in writing before the Court below to produce the originals as and when required.

8. In the result, the Civil Revision Petition is allowed setting aside the order dated 24.03.2015 in I.A.No.406 of 2014 in A.S.No.58 of 2014. The Court below is directed to return the documents i.e. Exs.B.19 to 21 to the petitioner by substituting the same with the certified copies and on giving an undertaking by the petitioner to produce the said original documents as and when required in the appeal. No costs.

Consequently, Miscellaneous Petitions pending, if any, shall stand closed.

02nd May, 2018

Tsr

JUSTICE N.BALAYOGI

