

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

CIVIL REVISION PETITION No.4025 of 2018

ORDER:

Challenging the Order, dated 23.04.2018, in I.A.No.91 of 2017 in O.S.No.63 of 2011, passed by the learned IV Additional District Judge, Kurnool, the present Civil Revision Petition is filed.

The brief facts are that the petitioners-defendants filed I.A.No.91 of 2017 under Order XVI Rules 1 & 2 read with Section 151 C.P.C., seeking to summon the Superintendent of Post Offices, Head Post Office, Kurnool. It is the case of the petitioners that in the Written Statement, they had referred to certain correspondence exchanged between their vendor and the postal authorities, more particularly the documents mentioned in the petition. It is the further case of the petitioners that summoning of the postal authorities i.e., Superintendent of Post Offices, is crucial to prove that the executant of the sale deed dated 20.05.2011 was alive and the endorsement was issued wrongly by the Postal Department as "Addressee expired". It was contended before the Court below that in as much as the vendor of the petitioners is no more, there is no other way of proving the said documents. In those circumstances, summoning of the Superintendent of Post offices becomes essential.

A Counter Affidavit has been filed opposing the Interlocutory Application and further stating that the documents belong to the person, who is not a party to the suit and who was not alive by the date of filing of the suit and further, the correspondence between the persons, who was not at all a party to the above suit, cannot be introduced in the suit proceedings by the petitioners-defendants. Yet another objection was taken that unless the petitioners-defendants

establish as to how the petition schedule documents came into their possession, the same cannot be marked.

The Court below, having taken into consideration the respective submissions had come to the conclusion that the I.A. is filed only to delay the proceedings and the disputed documents were examined by the experts and they had already submitted their opinion and further the documents, on which reliance is placed by the petitioners, are not produced from proper custodian and no useful purpose would be served even if the witnesses are summoned, as they are not relevant for the purpose of deciding the case.

Heard the learned counsel for the petitioners and the learned counsel for the respondent.

Perused the material on record. Taking into consideration the fact that the petitioners herein had pleaded in the Written Statement itself with respect to the documents, which were sought to be brought on record, and that there is no other way to bring the said documents on record and also considering the fact that the officer sought to be summoned is a public servant, the I.A. can be allowed. It may be noted that the relevancy or otherwise of the evidentiary value of the witness sought to be examined and marking of the documents could not be the factors, which can have the influence on an application filed under Order XVI C.P.C., and the same can be considered at the time of considering the respective arguments.

Further, in the case on hand, the petitioners had not strictly complied with the provisions of Order XVI of C.P.C., by providing the list of witnesses, whom they desire to examine nor have they sought any leave of the Court specifically stating the reasons why at the belated stage, they desire to summon the officer concerned. As stated supra, the documents came to the possession of the

petitioners through the vendor of the sale deed, dated 20.05.2011, and as she is no more, it has become necessary for summoning the Superintendent of Post Offices, Head Post Office, Kurnool, is plausible reason, which can be accepted in the facts of the case.

In those circumstances, there shall be a direction to the learned IV Additional District Judge, Kurnool, to issue summons to the witness sought to be examined and complete the entire exercise within a period of two weeks, from the date of receipt of a copy of this order, and the respective parties shall cooperate as it is the suit of 2011.

Accordingly the Civil Revision Petition is disposed of. No costs.

As a sequel, pending miscellaneous petitions, if any, shall stand closed.

Date: 28.11.2018

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CHALLA KODANDA RAM, J

