

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY**CIVIL REVISION PETITION No.3330 of 2017****ORDER:**

This Civil Revision Petition, under Article 227 of the Constitution of India, is filed questioning the Order dt.05.06.2017 in I.A.No.316 of 2017 in O.S.No.1176 of 2015 passed by XX Junior Civil Judge, City Civil Court, Hyderabad, allowing the petition filed under VIII Rule 1-A(3) of CPC to receive the documents listed in the petition filed along with the affidavit.

The Respondents herein/defendants filed a Petition under Order VIII Rule 1-A (3) of CPC with a request to receive the documents set out in the list alleging that at the time of filing Written Statement, they could not file some documents in support of their defence as they were not available at that time and now they traced the documents and filed the same along with the petition.

Revision Petitioner/Plaintiff filed Counter opposing the petition on the ground that the documents sought to be filed are fraudulent and there is no mention of documents in the petition filed by the respondents herein and that the affidavit filed in support of the said application is not in consonance with the provisions of law and the cause shown is not *bona fide* and requested to dismiss the Petition.

The trial Court, upon hearing both the counsel, allowed the petition.

Aggrieved by the impugned Order, the present Revision is filed questioning the Order on various grounds, mainly contending that the documents cannot be received at this stage since the petitioners could not explain the cause to the satisfaction of the trial Court and in the absence of any explanation, the Order passed by the trial Court is

unsustainable. It is also contended that under Rule 102 (2) of CPC, the Court should not ordinarily receive any documentary evidence in possession or power of any party, which should have been, but not produced on the due date, except in exceptional circumstances and good cause is shown for delay, but the trial Court did not consider the issue in proper perspective and committed an error in allowing the Petition filed under Order VIII Rule 1-A (3) CPC to receive the documents filed along with the petition and requested to set aside the Order impugned by allowing the present Revision.

During hearing, learned counsel for the petitioner/plaintiff reiterated the contentions urged in the petition and requested to allow the petition setting aside the Order dt. 05.06.2018 in I.A.No.316 of 2017.

Learned counsel for the respondents supported the Order in all respects.

The respondents herein filed petition under Order VIII Rule 1-A (3) CPC, to receive the documents set out in the list, but they did not furnish the details in the list. However, the trial Court on verification of the documents received the documents holding that no prejudice would be caused to the revision petitioner herein and if those documents are not received, the respondents herein will be put to serious loss and injury and thereby imposed day costs of Rs.200/-. But, now the said Order is under challenge before this Court on the ground that in the absence of sufficient reason to the satisfaction of the trial Court, receipt of the documents exercising power under Order VIII Rule 1-A (3) CPC is an illegality and requested to dismiss the petition.

Order VIII Rule 1-A deals with duty of defendant to produce documents upon which relief is claimed or relied upon. According to it, the respondents/defendants have to file all the documents claiming any relief or relied upon by them to defend the suit claim of the plaintiff and they have to file the documents in possession or power, in support of their defence or claim for set off or counter claim and shall enter such document in a list, and shall produce it in Court when the written statement is presented and shall at the same time, deliver the document and a copy thereof, to be filed with the Written Statement.

(2) Where any such document is not in possession or power of the defendant, he shall, wherever possible, state in whose possession or power it is.

(3) Sub Clause (3) is an exception to Rules 1 and 2 of Rule 1 of Order VIII CPC and it permits the Court to grant leave to the defendant to file documents, but on pre-condition to record satisfaction in Rule 3, but certain exceptions are carved out under sub Rule 4 of Rule 1-A of Order VIII.

The trial Court by exercising discretionary power that conferred on it granted leave to file documents though not filed under exceptional circumstances under sub Rule 3 of Rule 1-A of Order VIII on the ground that no prejudice would be caused if the documents are received and that delay can be compensated by imposing day costs of Rs.200/-. However, the trial Court did not receive the document i.e., copy of the lease deed while receiving other documents listed in the petition since they are admissible. When the Court exercised discretion in granting leave to file documents, this Court would not normally interfere with such Order as the power of this Court under Article 227 of the Constitution of India is limited.

Article 227 of the Constitution of India deals with power of superintendence by the High Court over all subordinate Court and Tribunals. The power of superintendence conferred upon the High Court by Article 227 is not confined to administrative superintendence only, but it includes the power of judicial revision also even where no appeal or revision lies to the High Court under the ordinary law, rather power under this Article is wider than that of Article 226 in the sense that it is not subject to those technicalities of procedure or traditional fetters which are to be found in certiorari jurisdiction and such power can also be exercised *suo motu*. It is a well settled principle that the High Court can exercise supervisory power under Article 227 of the Constitution of India and the Court can interfere with the directions issued by the Subordinate Courts by exercising such power, but this Court cannot exercise its power under Article 227 of the Constitution of India though the Order is wrong, since the power can be exercised only to keep the subordinate Courts and Tribunals within the bounds, in view of the law declared by the Apex Court in State (*N.C.T. of Delhi v Navjot Sandhu @ Afsan Guru*¹).

In view of the law declared by the Apex Court, I find no ground to interfere with the Order under challenge in this revision. Consequently, the present Revision is devoid of merit and deserves to be dismissed.

Accordingly, this Civil Revision Petition is dismissed.

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

M. SATYANARAYANA MURTHY, J

Date: 02-11-2018.

¹ (34) 2005(3) ALT (crl) 125 (SC)

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