

THE HON'BLE SRI JUSTICE SANJAY KUMAR

CIVIL REVISION PETITION No.4282 of 2018

ORDER

The petitioners are defendants 5 to 8 in O.S.No.306 of 1997 on the file of the learned I Additional Senior Civil Judge, Ranga Reddy District at L.B.Nagar. They filed I.A.No.198 of 2018 therein under Order 8 Rule 1-A(3) CPC to grant leave and receive twenty documents in evidence. By order dated 25.04.2018, the trial Court dismissed the I.A. Aggrieved thereby, they are before this Court by way of this revision petition filed under Article 227 of the Constitution.

Heard Sri Nazir Ahmed Khan, learned counsel for the petitioners-defendants 5 to 8, and Sri P.N.A.Christian, learned counsel on caveat for respondents 2 to 5-plaintiffs.

Parties shall hereinafter be referred to as arrayed in the suit.

O.S.No.306 of 1997 was filed seeking a declaration that certain registered sale deeds executed by defendants 1 to 4 in favour of defendants 5 to 8 were fraudulent, illegal and opposed to the agreement of sale dated 28.12.1991. The plaintiffs also sought cancellation of the said sale deeds apart from a permanent injunction restraining defendants 5 to 8 from executing any sale deed, agreement of sale, deed of mortgage or any document creating any right, title or interest over the suit schedule property. The suit schedule details four items comprising different extents of land in Sy.Nos.74 and 75 of Balanagar Village and Mandal, Kukatpally Municipality, Ranga Reddy District.

Defendants 5 to 8 filed their written statement in the suit on 03.08.1998. As per the affidavit filed in support of the subject I.A., the reason for the late production of these documents by defendants 5 to 8 was that most of them were filed in O.S.No.179 of 2008 on the file of the

learned Additional Junior Civil Judge, Cyberabad, Kukatpally. They further claimed that some of the documents had been misplaced in the office of their counsel and were traced out recently and that was the reason why these documents could not be filed along with their written statement.

It may be noted that Order 8 Rule 1-A(3) CPC enables a defendant to produce a document which was not filed along with the written statement only if leave is granted by the Court. Therefore, defendants 5 to 8 necessarily had to offer sufficient cause for their failure in not producing these documents along with their written statement. The strange reason put forth by them was that some of the said documents had been filed in O.S.No.179 of 2008. As the written statement in the present case was filed on 03.08.1998, the filing of these documents nearly ten years thereafter in another suit can hardly be cited as sufficient reason for not filing them in 1998 itself.

As regards the claim that some of the documents were misplaced in the office of the counsel for these defendants, there is no evidence to support the same. No affidavit was filed either by the counsel or by the clerical staff of the counsel with regard to the misplacing of those documents or their being found thereafter.

Perusal of the record reflects that defendants 5 to 8 filed a brief affidavit running into three paragraphs over two pages while the plaintiffs filed a detailed counter extending to nearly four pages. This clearly demonstrates that defendants 5 to 8 filed the subject I.A. in a most casual manner and the reasons put forth by them for the late production of these documents did not even have a toehold to stand upon. The order of the trial Court holding to this effect and dismissing the said I.A. therefore warrants no interference.

The civil revision petition is devoid of merit and is accordingly dismissed.

Pending miscellaneous petitions, if any, shall also stand dismissed.

No order as to costs.

JUSTICE SANJAY KUMAR

5th OCTOBER, 2018
PGS

