

**THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY**

**CIVIL REVISION PETITION NO.4412 OF 2018**

**ORDER:**

This civil revision petition is filed under Article 227 of the Constitution of India, questioning the order in I.A.No.107 of 2018 in O.S.No.13 of 2016 dated 08.06.2018 passed by the Junior Civil Judge, Railway Kodur, Kadapa District.

I.A.No.107 of 2018 is filed by the petitioner/plaintiff to summon the Tahsildar, Obvulavaripalli to prove possession of the petitioner over the suit schedule property by examining him as witness before the Court and also to produce Adangals for the years 2010-2018, 1-b namuna and other records relating to Sy.No.666/11p of Y.Kota Revenue Village over an extent of Ac.0-47 cents.

The respondent opposed the petition by filing a petition, contending that, unless the petitioner pleads that he obtained certified copies of the documents sought to be summoned or contended that the originals documents are necessary for deciding the real controversy, production of documents before the Court by the Tahsildar by summoning him would not serve any purpose and requested to dismiss the petition.

The Trial Court upon hearing arguments of the learned counsel appearing on both sides, dismissed I.A.No.107 of 2018 on 08.06.2018. Aggrieved by the order passed by the Trial Court, the present civil revision petition is filed under Article 227 of the Constitution of India, on the ground that, the Trial Court did not consider the purpose of

examination of Tahsildar and production of documents which are necessary for deciding the real controversy with regard to possession of the petitioner over the schedule property in dispute. But, the Trial Court without considering the very purpose, dismissed I.A.No.107 of 2018 erroneously and prayed to set-aside the order passed by the Trial Court.

During hearing, learned counsel for the petitioner reiterated the contentions urged in the main petition, while highlighting the purpose for which the documents and witnesses were summoned.

It is an undisputed fact that the petitioner/plaintiff filed O.S.No.13 of 2016 suit for injunction simplicitor, restraining the defendant, his men and agents from interfering with the plaintiff's peaceful possession and enjoyment of the plaint schedule property, while ascertaining that, he is in possession and enjoyment of the same, as it is alleged that the property in question is the self acquired property of the father of the plaintiff who purchased the same under the registered sale deed dated 14.07.1983 and he is in exclusive possession and enjoyment of the same. Whereas, the defendant filed written statement setting-up an agreement of sale allegedly obtained from the petitioner.

When the suit is filed for injunction simplicitor, the question to be decided by the Court is whether the plaintiff is in possession and enjoyment of the property as on the date of filing suit and whether defendant infringed or invaded the legal right of the plaintiff. Therefore, possession of the plaintiff as on the date of filing suit is the relevant question to claim injunction. The petitioner can produce the

cultivation account i.e. Adangal and other documents to establish his possession. But, summoning of Tahsildar and other documents, including Adangals for the years 2010-2018, 1-b namuna are not necessary, at best, the petitioner can obtain certified copies of the documents and produce before the Court to prove his possession. If, for any reason, the refused to issue certified copies, the petitioner may apply to the Trial Court for the same under Rule 129 of Civil Rules of Practice for issuing necessary certificates, enabling this petitioner to obtain certified copies of the documents, as the suit is pending before the court. Instead of resorting to such procedure, the petitioner sought to summon the Tahsildar and documents without any purpose. Therefore, issue of summons to a public servant for production of the documents would not serve any purpose. Hence, the petitioner is permitted to obtain certified copies from the office of the Tahsildar and in the event of Tahsildar refusing to issue certified copies, the petitioner may file appropriate application under Rule 129 of Civil Rules of Practice for issue of certificates, to enable this petitioner to obtain certified copies of the documents.

On production of such certificate before the Tahsildar, the Tahsildar is bound to issue certified copies of the public documents available in the office. But, the petitioner cannot summon a public servant and the documents lying in the office for the simple purpose to prove possession over the property, in view of the limited scope of trial in a suit for injunction simplicitor. Therefore, the Trial Court committed no error, warranting interference of this Court in the order under challenge, by exercising power under Article 227 of the

Constitution of India. However, liberty is given to this petitioner to approach trial Court by filing appropriate application.

With the above direction, the civil revision petition is dismissed at the stage of admission itself.

Consequently, miscellaneous petitions pending, if any, shall also stand closed. No costs.

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**JUSTICE M. SATYANARAYANA MURTHY**

Dated:07.09.2018

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