THE HON'BLE SRI JUSTICE RAGHVENDRA SINGH CHAUHAN

Civil Revision Petition No.4522 of 2018

Order:

The petitioners-plaintiffs are aggrieved by order dated 29.06.2018, passed by the Additional Chairman, Accidents Claims Tribunal-cum-XX Additional Chief Judge, City Civil Court, Secunderabad, whereby the learned Court has allowed an application filed by the respondent-defendant for calling the income tax returns of Mr.D.Manohar Singh for the assessment year 1992-1993.

2. Briefly the facts of the case are, the petitioners-plaintiffs had filed a suit, namely O.S.No.123 of 2009, before the learned Judge for declaration of title, cancellation of sale deed, and consequential relief of injunction, and possession against the respondent-defendant. Both the parties, the petitioners-plaintiffs and respondent-defendant are claiming title over premises bearing Old No.6920 and new Municipal No.3-1-100 to 103 and 134 on land admeasuring 236.68 square yards with a built up area of 36000 square feet located at General Bazar, Secunderabad. According to the petitioners-plaintiffs, they bought the said property through registered sale deed dated 10th of August, 2005. However, according to the respondent-defendant, he had bought the same property from D.Manohar Singh in the year 1991. Subsequently, Mr.D.Manohar Singh had expired. Therefore, the respondent-defendant filed an application for summoning the income tax returns of D.Manohar Singh for the assessment year 1992-93, in order to establish the plea that D.Manohar Singh had sold the said

property to him in the year 1991. By the impugned order, the said application was allowed by the learned Judge. Hence this petition before this Court.

3. The learned counsel for the petitioners-plaintiffs pleads that since Mr.D.Manohar Singh was not granted the said property till 2005, any sale deed entered between the respondent-defendant and Mr.D.Manohar Singh would be an illegal transfer of property. Despite the fact that respondent-defendant has the registered sale deed in his possession, he is refusing to produce the same. Instead, in order to protract the trial, the respondent-defendant has filed an application for summoning of the income tax returns of Mr.D.Manohar Singh, from the Income Tax Department. Therefore, the filing of the application is merely a subterfuge to prolong the trial. Hence, the learned trial court was not justified in allowing the application, and in summoning the said documents.

4. On the other hand, the learned counsel for the respondent-defendant pleads that the relevancy of the document can be seen only once it is produced. Therefore, the first contention raised by the learned counsel for the petitioners-plaintiffs is premature in nature. Secondly, since D.Manohar Singh has already expired, the only way for the respondent-defendant to prove the fact that he had bought the said property prior to the petitioners-plaintiffs, is to produce income tax returns of Mr.D.Manohar Singh. However, as the same are in the possession of the Income Tax Department, the respondent-defendant was justified in filing the application for summoning of the said documents. Equally, the learned trial court

was justified in allowing the said application by the impugned order. Therefore, the learned counsel has supported the impugned order.

5. Admittedly, Mr.D.Manohar Singh has expired. Thus, he is not available to be produced as a witness before the learned trial court. Allegedly, the respondent-defendant had bought the property in dispute in the year 1991. Allegedly, the petitioners-plaintiffs had brought the property in the year 2005.

6. Since Mr.D.Manohar Singh is no longer alive, and since it is imperative for the respondent-defendant to establish his case, he is justified in requesting the trial court to summon the income tax returns of Mr.D.Manohar Singh. After all, the sale of a property would be reflected in the income tax returns of Mr.D.Manohar Singh. Therefore, the learned trial court was certainly justified in passing the impugned order.

7. But the relevancy, or the evidentiary value of the income tax returns can be appreciated only once the document is produced before the court. Therefore, the petitioners-plaintiffs would be free to raise their objection with regard to the relevancy and evidentiary value of the said document. Hence, the impugned order does not adversely affect the interest of the petitioners-plaintiffs.

8. Although the petitioners-plaintiffs may be under an apprehension that the trial will be dragged on, but they have sufficient means to persuade the learned trial court to complete

the trial as soon as possible, after all, the trial has been pending for the last nine years.

9. For the reasons stated above, this court does not find any merit in the present petition; it is, hereby, dismissed.

10. Miscellaneous petitions if any, shall stand closed.

(RAGHVENDRA SINGH CHAUHAN,J)

Date:10.12.2018

msb