

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

Civil Revision Petition no.4599 of 2018

ORDER:

The unsuccessful defendants/petitioners filed this revision, under Article 227 of the Constitution of India, assailing the order and decretal order, dated 26.06.2018, of the learned III Additional Junior Civil Judge, Nellore, SPSR Nellore District, passed in I.A.no.298 of 2018 in O.S.no.114 of 2013.

2. I have heard the submissions of the learned counsel appearing for the petitioners/defendants ('defendants', for brevity) and of the learned counsel appearing for the plaintiff/respondent ('plaintiff', for brevity). I have perused the material record.

3. The facts, which are necessary to be stated as a preface to this order, in brief, are as follows:

The plaintiff instituted the suit for perpetual injunction in respect of a wet land of an extent of Ac.1.92 cents in Patta no.280, Survey no.1332/1 of Tirumalammapalem Gram Panchayat, Epuru Bit II village of Venkatachalam Mandal. The 1st defendant filed a written statement resisting the suit. At the time when the suit is posted for judgment, the plaintiff filed the instant application to accord leave to file a deed of rectification, dated 17.05.2018, executed by Yerrati Nageswara Rao and others in favour of the plaintiff and receive the same on file *inter alia* stating that on account of discrepancy in the boundaries of the plaint schedule, the said rectification deed was obtained.

4. The case of the defendants is that the petition for granting leave to file the rectification deed is filed with a *mala fide* intention and that it is a post suit document and hence, it cannot be received on file. It is also the case of the

defendants that the petition is intended to delay and drag on the suit proceedings.

5. The trial Court allowed the petition and granted leave to the plaintiff to file the document and accordingly received the same on file subject to proof, admissibility & relevancy.

6. At the hearing, it is stated that the plaintiff's application for amendment of the plaint schedule insofar as the Western & Northern boundaries was dismissed by the trial Court and that the plaintiff filed the connected revision in C.R.P.no.5844 of 2018. It is also stated that the rectification deed is already marked as exhibit A11.

7. This Court, by a separate order passed today, dismissed C.R.P.no.5844 of 2018. Since the document is received on file subject to proof, admissibility and relevancy and as the document is already marked, this Court is of the considered view that this revision petition can be dismissed subject to the observation that the trial Court shall at the appropriate stage of the matter examine the probative value and the weight to be attached to the said document having regard to the facts & circumstances of the case and the other evidence that is already brought on record.

8. In the result, the Civil Revision Petition is dismissed subject to the observation in the preceding paragraph. There shall be no order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

M.SEETHARAMA MURTI, J

10th December, 2018
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