

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CIVIL REVISION PETITION NO.4787 OF 2018

ORDER:

This civil revision petition is filed under Article 227 of the Constitution of India, to set-aside the order dated 25.06.2018 in I.A.SR.No.880 of 2018 passed by the Junior Civil Judge, Rajampet, Y.S.R. Kadapa District, whereby, the office of Junior Civil Judge, Rajampet, returned I.A.SR.No.880 of 2018 with the following objection.

“How the petition is maintainable as already on the same ground petition in I.A.No.424 of 2007 and 3 of 2018 is dismissed. Hence returned”

The petitioners filed I.A.SR.No.880 of 2018 under Rule 129 of Civil Rules of Practice to summon the concerned authorities mentioned in the petition to produce records and to give evidence as a Court witnesses.

The petitioners filed I.A.No.424 of 2007 and I.A.No.3 of 2018 for the same relief under Order XIII Rule 10 to summon the Revenue Divisional Officer, Rajampet and to produce the records mentioned in the petition.

Rule 129 of Civil Rules of Practice deals with production of records in the custody of a Public Officer other than a Court and according to it (1) A summons for the production of records in the custody of a Public Officer other than a Court shall be in Form No.23 and shall be addressed to the Head of the Office concerned

and in the case of a summons to a District Registrar or a Sub-Registrar of Assurances, it shall be addressed to the Registrar or Sub-Registrar in whose office, or sub-office, as the case may be, the required records are kept, provided that, where the summons is for the production of village accounts, including filed measurement books, such summons shall be addressed to the Tahsildar or the Deputy Tahsildar in independent charge as the case may be; provided further that, when the summons is for production of records in the custody of high dignitaries like the Speaker of the Lok Sabha or State Legislative Council etc., the summons shall be in the form of a letter of request in Form No.23-A.

But, such power can be exercised only when the concerned officials failed to issue certified copies to the documents, unless the original documents themselves are necessary to prove the case of the petitioners. But, no certificate was obtained for issuing certified copies of the documents by these petitioners and straight-away sought for relief to summon the witnesses and produce the documents. The rules are only to implement the procedure laid down in C.P.C and such relief under Rule 129 Civil Rules of Practice cannot be granted. Therefore, at best, these petitioners can obtain a certificate from the court, to obtain certified copies as contemplated under Rule 130 of Civil Rules of Practice.

Rule 130 of Civil Rules of Practice deals with copies of public documents and it says that, when a party to a suit to proceeding

seeks to obtain a certified copy of a public document for being filed into Court in that suit or proceeding, he may apply to the Court wherein the suit or proceeding is pending for the issue of a certificate to enable him to obtain such copy from the appropriate authority, and the Court shall, on being prima facie satisfied that the production of the certified copy in the suit or proceeding is necessary, issue to the applicant a certificate to that effect.

But, learned counsel for the petitioners contended that, the petitioners applied for certified copy of documents with the Revenue Divisional Officer, Rajampet, but the Revenue Divisional Officer returned copy application on the ground that, when the suit is pending for adjudication, he cannot issue certified copies. In such circumstances, the remedy open to the petitioners is to approach the Court for issue of certificate under Rule 130 of Civil Rules of Practice, in view of pendency of suit. Instead of filing of petition under Rule 130 of Civil Rules of Practice, the petitioners filed an application under Rule 129 of Civil Rules of Practice and also I.A.No.424 of 2007 and I.A.No.3 of 2018 under Order XIII Rule 10, circumventing the Civil Rules of Practice to obtain relief. Therefore, I.A.SR.No.880 of 2018 filed under Rule 129 of Civil Rules of Practice is not maintainable. However, liberty is given to the petitioners to file appropriate application under Rule 130 of Civil Rules of Practice for issue of certificate to obtain certified copy of public document in a pending suit, lying in the office of the Revenue Divisional Officer, Rajampet.

With the above direction, civil revision petition is disposed of.

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

JUSTICE M. SATYANARAYANA MURTHY

Date:24.08.2018

Note: Issue copy by 27.08.2018

b/o
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