

THE HON'BLE SRI JUSTICE D.V.S.S.SOMAYAJULU

CIVIL REVISION PETITION NO. 5284 OF 2015

ORDER:-

This revision is filed questioning the order, dated 05-10-2015, passed in I.A.No.221 of 2015 in O.S.No.163 of 1992 on the file of the Court of Junior Civil Judge, Srungavarapukota.

2. The said application (I.A.No.221 of 2015) is filed under Order VII, Rule 14 CPC to receive the FMB sketch issued by the Director, Survey and Settlement Office, Hyderabad.

3. The contention of the learned counsel for the revision petitioner is that this document is necessary to be marked. According to the learned counsel, it is a certified copy issued by the Assistant Director, Survey and Settlement Office, Hyderabad. The learned counsel for the petitioner points out that a challan for Rs.50/- was also paid and a copy of the cash bill was also produced. The learned counsel drew the attention of this court to an order passed on 30-03-2011 in A.S.No.38 of 2007 by the District Judge, Vizianagaram, wherein a Senior Advocate having knowledge of Survey was directed to be appointed as a Commissioner to localize the suit land etc., The other directions of the court in that order included a direction to the Advocate

Commissioner to execute the warrant with the assistance of Mandal Surveyor and also with the assistance of a Private licensed Surveyor with reference to the old survey records of 1902 and other records. The District Judge, while remanding the matter, also gave an opportunity to both the parties to adduce further evidence if any. The learned counsel for the petitioner submits that pursuant to this order, they want to file the document, which is a certified copy issued by the Assistant Director, Survey and Land Records.

4. On the other hand, the learned Government Pleader for Arbitration (AP) appearing for the respondents strongly opposed the application and also submitted that the document submitted is only a Xerox copy allegedly issued by the Assistant Director, Survey and Land Records. The contention is that the said document cannot be looked into without comparing with the original and that the said record is available in the MRO Office.

5. This court after hearing both the learned counsel noticed that the impugned order is passed and the application was rejected only on the ground that the Xerox copy cannot be looked into without comparing with the original document and that the said record is available in the MRO Office. The contention of the learned counsel for

the petitioner appears to be correct. It is his specific case in his affidavit that when the Advocate Commissioner executed the warrant, he filed the Xerox copy of the FMB sketch. In the subsequent para of the affidavit filed in support of the petition, he states that the document proposed to be filed was obtained from the Office of the Director, Survey and Land Records. The learned counsel for the petitioner submits that copy of the FMB sketch available in the Director's Office was a Xerox copy and the same was certified by the Assistant Director. The learned counsel also points out that an amount of Rs.50/- was paid towards fee. Therefore, in the strict sense of the term, the document is not a "Xerox" copy. It is certified copy because the Xerox copy is certified as a copy. Therefore, this court is of the opinion that the impugned order that is passed is not correct. The learned counsel for the petitioner also undertakes to file an application immediately to summon the said document which is admittedly available in the MRO Office as per the counter filed in the lower court. Therefore, the impugned order, dated.05-10-2015, is set aside and the lower court is directed to proceed with the trial. Any objection as to the marking of the document should be recorded at the time when the document was actually tendered in evidence. It is for the court to decide on the same in accordance with law. The lower court is directed to

proceed with the trial on a priority basis. Requests for adjournments should be dealt with strictly and as per law.

Accordingly, the Civil Revision Petition is allowed. No costs. Miscellaneous Petitions pending, if any, shall stand closed in consequence.

D.V.S.S.SOMAYAJULU,J

27-09-2018
TSNR

