

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CIVIL REVISION PETITION No.5094 of 2018

ORDER:

This petition under Article 227 of the Constitution of India is filed against the order dated 14.08.2018 passed in I.A.No.122 of 2018 in O.S.No.53 of 2012, whereby the petition under Order VII Rule 14 of Code of Civil Procedure to receive the documents, was rejected on the ground that the document even if received would not serve any purpose.

2. It is the case of the petitioner that he traced out land ceiling proceedings in C.C.No.2306 of 1975 in the house of her father wherein the suit schedule property was shown and at that time his father and senior paternal uncle are residing jointly and her senior paternal uncle was Manager of joint family and subsequently the property fell to the share of her father and hence the document is essential to prove her case and requested to received the document exercising power under Order VII Rule 14 of CPC.

3. The defendant filed counter *inter alia* contending that the land ceiling declaration is in the name of senior paternal uncle of the petitioner and not in the name of petitioner's father, and there are no grounds to receive the document.

4. The trial Court dismissed the petition, however, the order is assailed in this revision under Article 227 of the Constitution of India contending that unless an opportunity is given to the petitioner, it is difficult for him to prove his case positively and the orders passed in the land ceiling proceedings are public documents and unless the documents are received it is difficult for her to substantiate her contention, but the trial Court did not record any specific reason in rejecting the request of the petitioner and committed error and

finally requested to set aside the impugned order, by directing the trial Court to receive the documents set out in the list filed along with this petition.

5. At the time of hearing, learned counsel for the petitioner vehemently contended that this document is necessary for deciding the real controversy between the parties and Sub-Rule (3) of Order VII Rule 14 is exception to Sub-Rule 1 and 2 but the trial Court did not consider under what circumstances the documents can be received, and committed an error. He has also drawn the attention to the allegations made in the plaint in support of her contention, but the Court may look into such evidence even if received, in the absence of pleadings and in the nature of relief in the plaint. He therefore requested to receive the document and set aside the order passed in the I.A.No.122 of 2018.

6. This application is filed under Order VII Rule 14 of the CPC to receive the document set out in the list only on the ground that this document is not within the knowledge of the petitioner and it was traced just two days prior to the petition on 28.07.2018 but the trial Court partly believed and observed that since the suit is coming up for cross examination of DW1 and at this stage, the petitioners filed the application under Order VII Rule 14 of CPC.

7. Order VII Rule 14 of CPC reads as under:

Production of document on which plaintiff sues or relies:

(1) Where a plaintiff sues upon a document or relies upon a document in his possession or power in support of his claim, he shall enter such documents in a list, and shall produce it in Court when the plaint is presented by him, and shall, at the same time deliver the document and a copy thereof, to be filed with the plaint.

(2) Where any such document is not in the possession or power of the plaintiff, he shall, wherever possible, state in whose possession or power it is.

(3) A document which ought to be produced in Court by the plaintiff when the plaint is presented, or to be entered in the list to be added or annexed to the plaint but is not produced or entered accordingly, shall

not, without the leave of the Court, be received in evidence on his behalf at the hearing of the suit.

8. It is undisputed law that unless there is a pleading, any amount of evidence adduced in the absence of pleading cannot be looked into for any purpose. In the entire pleadings, there is no reference to the order passed in the land ceiling proceedings in C.C.No.2306 of 1975 and in the absence of any pleadings with reference to the order in the Ceiling Case No.2306 of 1975, exercise of powers under Order VII Rule 14 of CPC does not arise, since in the judgment in Kalyan Singh Chouhan v. C.P. Joshi¹, the apex Court held that the Court cannot travel beyond the pleadings and issue could not be framed unless there were pleadings to raise controversy on particular fact or law. Thus, the Court cannot travel beyond the pleadings and record a finding.

9. In view of the law declared by the apex Court in the judgment referred in Kalyan Singh (1 supra), any amount of evidence adduced in the absence of pleading cannot be looked into. Therefore, the document even if received cannot be looked into for any purpose for deciding the real controversy between the parties in view of the bar.

10. Hence, the civil revision petition is dismissed while permitting the petitioner to redress her grievance by filing appropriate application before the trial Court. No costs. Interim stay granted on 05.09.2018 shall stand vacated. Pending miscellaneous petitions, if any, shall also stand dismissed.

M. SATYANARAYANA MURTHY, J

06th December, 2018
KSM

¹ (2011) 11 SCC 786

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