

THE HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

CIVIL REVISION PETITION No.1304 OF 2017

ORDER:

This civil revision petition is filed by the petitioners-defendants, under Article 227 of the Constitution of India, assailing the order dated 29.11.2016 passed in I.A. No.627 of 2016 in O.S. No.249 of 2012 on the file of the Court of I Additional Junior Civil Judge, Machilipatnam.

2. Heard the learned counsel for both the parties.

3. A perusal of the record reveals that the respondent filed O.S.No.249 of 2012 on the file of the Court of I Additional Junior Civil Judge, Machilipatnam, against the petitioners seeking perpetual injunction in respect of the suit schedule property. During the pendency of the suit, the petitioners filed the petition under Order XVIII Rule 17 read with Section 151 of CPC seeking to recall D.W.1 for the purpose of marking documents. The trial Court, after affording reasonable opportunity to both the parties, dismissed the petition. Hence, the revision.

4. At the time of hearing, learned counsel for both the parties submitted that the petitioners filed I.A.No.738 of 2016 to receive the documents. A perusal of the record reveals that the trial Court dismissed the petition on the sole ground that the petitioners have not filed any document. The finding of the trial Court is, therefore, not sustainable in view of pendency of I.A.No.738 of 2016. Taking into consideration the facts and circumstances of the case, this Court is of considered view that it is a fit case to allow the revision.

5. In the result, the civil revision petition is allowed, setting aside the order dated 29.11.2016 in I.A. No.627 of 2016. Consequently, I.A.No.627 of 2016 in O.S. No.249 of 2012 on the file of the Court of I Additional Junior Civil Judge, Machilipatnam is allowed. The trial Court is hereby directed to dispose of I.A.No.627 of 2016 along with I.A.No.738 of 2016 on merits as expeditiously as possible preferably within a period of one month from the date of receipt of a copy of this order. Miscellaneous petitions if any pending in this revision petition shall stand closed.

Date: 11.7.2018
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T.SUNIL CHOWDARY, J.

