

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CIVIL REVISION PETITION No.6020 of 2018

ORDER:

This civil revision petition is filed under Article 227 of Constitution of India challenging the order dated 24.09.2018 passed in I.A.No.444 of 2018 in O.S.No.33 of 2012 by the Senior Civil Judge, Narayanpet, whereby, the petition filed under Order XVI Rule 6 of Code of Civil Procedure (for short "C.P.C.") read with Rule 129 of Civil Rules of Practice, was dismissed.

The petitioners are the plaintiffs in the suit filed for declaration of title and perpetual injunction and they challenged the wrong entries recorded in favour of the respondent Nos.3 to 5, before the Tahsildar, Kosgi and when the petitioners are minors, taking advantage of the same respondent Nos.3 to 5 created fake record and wrong entries were made by the Tahsildar, Kosgi, and based on the revenue records, the respondents are claiming the property as per File No.ROR/A/12/2010, dated 12.01.2010 and the extent of land in the name of the petitioners was deleted without notice to them. Therefore, the File No.ROR/A/12/2010, dated 12.01.2010 will not confer any title on the respondents and to prove the genuineness of the documents produced before the Tahsildar, the petitioners sought to summon the file bearing No. ROR/A/12/2010, dated 12.01.2010.

The respondents opposed the petition before the trial Court. However, the trial Court after hearing both the counsel dismissed the petition on the ground that the entries were made in the ROR based on the orders of the Joint Collector and the Joint Collector is not a party to the document, therefore, the record cannot be summoned.

When the petitioners intended to summon the documents in the custody of the public officer, the procedure contemplated under Rule 129 of Civil Rules of Practice has to be followed.

As per sub-rule (3) of Rule 129 of Civil Rules of Practice, no court shall issue such summons unless it considers the production of the original is necessary or is satisfied that the application for a certified copy has been duly made and has not been granted. The Court shall in every case record its reasons in writing and shall require the applicant to deposit in Court, before the summons is issued, to abide by the order of the Court, such sum as it may consider necessary to meet the estimated cost of making a copy of the document when produced. If for any reason, certified copies were not issued, the Court may issue certificate to the effect that the documents are necessary. But the petitioners have not followed the procedure contemplated under Rule 129 of Civil Rules of Practice. Therefore, the revision is liable to be dismissed.

In the result, the civil revision petition is dismissed granting liberty to the petitioners to file appropriate application for obtaining certificate to issue certified copies of the documents by Tahsildar, Kosgi and on filing such application, the trial Court is directed to dispose of the same within two weeks from the date of filing of the petition after affording reasonable opportunity to both parties. No costs.

The miscellaneous petitions pending, if any, shall also stand closed.

JUSTICE M. SATYANARAYANA MURTHY

30.11.2018
Ksp