

THE HONORABLE SRI JUSTICE M. SATYANARAYANA MURTHY

C.R.P.No.5309 of 2016

ORDER

This revision under Article 227 of the Constitution of India is filed questioning the order dated 02.08.2016 passed in I.A.No.1475 of 2016 in O.S.No.84 of 2009 by the Senior Civil Judge, Mangalagiri, dismissing the application filed under Order 16 Rule 5 read with Section 151 of C.P.C., to permit the petitioners/plaintiffs to summon the Tahsildar, Mangalagiri, to produce all relevant records relating to Sy.Nos.228/3 and 229 of Mangalagiri Town and to give evidence.

2. Petitioners and others filed the petition under Order 16 rule 5 of CPC stating that while the suit was posted for further evidence of petitioners, in view of the claim made by the defendants in the written statement, the relevant records relating to Sy.Nos.228/3 and 229, situated at Mangalagiri Town, are necessary to prove their case and therefore, they requested to **summon** the Tahsildar, Mangalagiri, to produce the relevant records relating to said survey numbers and give evidence to that extent. The trial Court dismissed the petition on the premise that though it was an application filed under Order 16 Rule 5 of CPC, the petitioners have not followed the procedure contemplated under Rule 129(3) of A.P.Civil Rules of Practice. Aggrieved by the said order, the present revision is filed on the ground that the trial Court misunderstood the relief in the petition and dismissed on the premise that it was a petition filed under Order

18 Rule 17 CPC and committed an error and therefore, the petitioners are requested to set aside the order passed by the trial Court.

3. The facts are not in dispute. Dismissal of the application filed under Order 16 Rule 5 CPC to summon the Tahsildar for production of the relevant documents on the ground of non-compliance of Rule 129(3) of A.P.Civil Rules of Practice is not an error. But, dismissal of petition treating the same as an application under Order 18 Rule 17 CPC is error apparent on the face of the record. Moreover, the petitioners claimed the relief to direct the Tahsildar, Mangalagiri town, to produce all the relevant records relating to Sy.Nos.228/3 and 229 of Mangalagiri Town and to give evidence. In the absence of any specific prayer for summoning specific records, it is difficult to produce the entire record relating to said survey numbers before the Court. However, the order passed by the trial Court for non-compliance of Rule 129(3) of A.P. Civil Rules of Practice, cannot be interfered with while setting aside the other part of the order by granting liberty to petitioners to take steps under Rule 129 of A.P. Civil Rules of Practice, and in case of failure of the Tahsildar to issue any certified copies, they may obtain a certificate under Sub-rule 3 of Rule 129 of A.P.Civil Rules of Practice, and on compliance, if no certified copies are issued, the petitioners may renew their request for summoning the Tahsildar to produce the documents and to give evidence.

4. Giving liberty as stated above, the Civil Revision Petition is dismissed. However, this order would not come in the way of the petitioners to renew their request. No order as to costs. Miscellaneous petitions, if any, pending in this revision shall stand dismissed.

M. SATYANARAYANA MURTHY, J

12th November, 2018

sj

