

**THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY**

**CIVIL REVISION PETITION Nos. 378, 394, 403 & 458 OF 2016**

**COMMON ORDER:**

C.R.P.No. 394 of 2016 is filed questioning the order dated 04-12-2015 in I.A.No. 690 of 2015 in O.S.No. 898 of 2012 on the file of the Court of Principal Senior Civil Judge at Kakinada (for short, 'the Court below'), whereby it dismissed the abovementioned I.A. filed under Order VII Rule 14 (3) of the Code of Civil Procedure (for short, 'C.P.C.') to receive the documents set out in the list annexed to the petition and mark them as exhibits.

2. The specific reason assigned in para No. 4 of the affidavit of petitioner No. 1 is as follows:

*"I submit that I filed suit O.S. 136/2011 on the file of the III Addl. Senior Civil Judge, Kakinada, against the 1<sup>st</sup> defendant for recovery of amount on foot of pronote. The 1<sup>st</sup> defendant contested the suit. The suit is decreed on 20-09-2012. The defendant examined D.W.2 first attester of the suit pronote Ex. A1. D.W.2 is by name Jagilinki Venkatarao, S/o Tatabbai. He admits in his cross-examination that P.W.1 is residing in D.No. 11-5-10 and D1 is residing in D.No. 11-5-9, earlier both portions were belong to Yadava Community people and property was devolved on P.W.1 and D.W.1 and original owers died, leaving no legal heirs and hence the property devolved on the parties only as their shares. These admissions prove my case. The C.C. of decree, judgment and deposition of D.W.2 are to be marked on my side. Summons to said Jagilinki Venkatarao, S/o Tatabbai are to be issued for his examination."*

3. The Court below by the order under challenge dismissed the petition on the ground that the petitioners did not make out any case and no specific reason was assigned to receive the documents exercising power under Order VII Rule 14 (3) of C.P.C.

4. Feeling aggrieved by the same, the present revision is filed on the ground that the Court below did not look into the reason assigned by the petitioners in proper perspective and the necessity to mark those documents by the petitioners to substantiate their contention and therefore prayed to set aside the order.

5. During hearing, learned counsel for the petitioners while reiterating the contentions would draw the attention of this Court to the documents proposed to be marked *i.e.* deposition of D.W.2, certified copies of decree and judgment and wedding invitation of defendant No. 2 in O.S.No. 136 of 2011 on the file of the Court of II Additional Senior Civil Judge, Kakinada, and highlighted the importance of those documents for deciding the real controversy. Learned counsel would further draw the attention of this Court to various paras in the affidavit filed along with the petition to contend that the petitioners assigned a specific reason for not filing those documents and finally requested this Court to set aside the order allowing the petition.

6. Admittedly, the petitioners filed the main suit for declaration of title and other consequential reliefs. There was a reference in the plaint regarding filing of suit O.S.No. 136 of 2011 in para No. 10 of the plaint but there was no reference about decree and judgment and deposition and their relevancy for deciding the real controversy. Therefore, the documents sought to be received are neither the documents sued upon nor relied upon but intended to introduce the same by filing petition at the fag end of the trial on the ground that they are necessary for adjudication of the dispute. Order VII Rule 14 of C.P.C. deals with production of document on which plaintiff sues or relies which reads as under:

*"(1) Where a plaintiff sues upon a document or relief upon document in is 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."*

Thus, from a bare reading of the above reproduced Rule, it is the obligation of the plaintiff to file all the documents by entering in the list of documents annexed to plaint along with the plaint or in case the documents are not in his possession or power, he must state in whose possession the documents are wherever possible in compliance of Rule 14 (2) of Order VII and the Court can grant leave to file such documents under sub-rule (3) of Rule 14 of Order VII. A similar question came up before this Court in ***K.V.Subramanyam Vs. Smt. K.Madhavi***<sup>1</sup>; ***Dasuputruni Suryanarayana Vs. Dasuputruni Adinarayana and others***<sup>2</sup>; ***Dugaputi Sudhakar Reddy Vs. Avulapati Shankar Reddy and others***<sup>3</sup>; and ***Sirugudi Adinarayana Vs. Bodla Mariamma***<sup>4</sup>, wherein this Court laid down certain principles as to receiving documents. The underlying principle laid down by this Court in the judgments referred *supra* is that Court can grant leave if sufficient cause is shown for receiving such documents. In view of the law declared by this Court, I would like to turn to the facts of the case. According to the petitioners, para No. 4 of the affidavit extracted hereinabove is relevant which allegedly disclosed the reasons for not filing the documents along with the

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<sup>1</sup> 1999 (6) ALT 47 (D.B.)

<sup>2</sup> 2005 (3) ALT 87 (D.B.)

<sup>3</sup> 2005 (2) ALT 417

<sup>4</sup> 2004 (4) ALT 1

plaint. A careful reading of the same does not disclose any reason for not filing such documents, however demonstrated how those documents are relevant for deciding the real controversy. As such, the affidavit filed by the petitioners did not disclose any cause much less sufficient cause to receive the documents. Unless the petitioners satisfy the Court that they are prevented by any reason from filing documents along with the plaint, the Court cannot condone delay and receive such documents.

7. When the affidavit is bereft of any cause much less sufficient cause explaining the reason for their failure to file the documents, this Court cannot receive such documents while exercising power under Order VII Rule 14 of C.P.C. The Court below dismissed the petition not only on the ground of the petitioners' non-compliance of Rule 14 (2) but also on the ground of their non-compliance of Rule 14 (3) assigning specific reason for their failure to file the documents along with the plaint in compliance of Rule 14 (1) of Order VII of C.P.C. Therefore, the order under challenge is free from any illegality warranting interference of this Court exercising power under Article 227 of the Constitution of India. The revision petition is devoid of merits and the same is liable to be dismissed.

8. The civil revision petition is accordingly dismissed. Consequently, C.R.P.Nos. 378, 403 and 458 of 2016 filed for recalling P.W.1, issuing summons to Jagilinki Venkatarao and reopening the matter respectively are also dismissed. Pending miscellaneous petitions, if any, in these civil revision petitions shall stand dismissed in consequence.

Date: 30-01-2018.

JSK

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**M.SATYANARAYANA MURTHY, J.**