

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

CIVIL REVISION PETITION Nos.5843 and 5865 OF 2017

ORDER :

These Civil Revision Petitions are filed by the petitioner/1st defendant against order dated 10.10.2017 in I.A.No.192 of 2017 and I.A.No.191 of 2017 in O.S.No.126 of 2012 filed by the 1st respondent/plaintiff under Order 7 Rule 14 read with Section 151 of CPC and under Order 18 Rule 17 under Section 151 CPC to call P.W.3 for marking of document and to receive the document, respectively, wherein and whereby the Court below allowed the same.

Heard learned counsel for the petitioner and learned counsel for the respondents.

Learned counsel for the revision petitioner submits that though the pleas of partition is taken in the year 2013 in the written statement, the application for receiving the partition list and for recalling P.W.3 are filed in the year 2017 belatedly, without explaining the delay in filing the said applications. He submits that the Court below without any application of mind allowed the same.

Learned counsel for the 1st respondent/plaintiff submits that the Court below after considering the explanation given by the petitioner in I.A.Nos.191 & 192 of 2017, allowed applications while exercising its jurisdiction, as such, no interference is called for.

Before considering the rival contentions of both parties, it is relevant to extract order 7 Rule 14 (3) of CPC.

**“Order VII Rule 14: Production of document on which plaintiff
sues or relies: (1).....**

(2).....

(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.”

A reading of above provision goes to show that the Court has power to entertain the documents, if the same are not filed along with the plaint and before the settlement of issues, the Court can exercise its discretion and the Court below has rightly exercised its discretion after considering the evidence in support of the affidavit in I.A.Nos.191 and 192 of 2017. That apart, the Court below has not dealt with the aspect of delay in filing the subject applications, since it is admitted by the revision petitioner (defendant in the suit) in his written statement that there was a partition between the sons of Rohan Saheb.

In view of above facts and circumstances, I do not see any infirmity and illegality in the orders passed by the Court below warranting interference by this Court under Article 227 of the Constitution of India.

Accordingly, these Civil Revision Petitions are dismissed. There shall be no order as to costs. As a sequel thereto, miscellaneous petitions, if any, pending shall stand dismissed.

A.RAJASHEKER REDDY, J

23-01-2018
kvs

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Date: 23.01.2018

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