

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

C.R.P.NO.7064 OF 2018

ORDER

The 1st respondent herein filed the suit for specific performance in O.S.No.04 of 2010 on the file of Principal Junior Civil Judge, Srikalahasti. The 2nd defendant in the suit, filed the present I.A.No.1083 of 2018 in O.S.No.04 of 2010, seeking to summon the parents of the plaintiff and the advocate by name SGhouse Basha, as witnesses, to give evidence. By the impugned order and decree dated 25.10.2018, the trial court partly allowed the application and directed for summoning the Advocate SGhouse Basha, to give evidence and the prayer to summon parents of the plaintiff, was rejected. Aggrieved by the same, the present revision is filed.

Learned counsel for the petitioner submits that the plaintiff filed the suit for specific performance relying on a sale letter said to have been executed by the deceased 1st defendant in her favour. He submits that the mother of the plaintiff filed a criminal complaint against the petitioner and in that said complaint, she has not mentioned about the sale letter stated to have been executed by the deceased 1st defendant in favour of her daughter, who is the plaintiff, and on the other hand, she claimed that the deceased 1st defendant executed a gift settlement deed dated 13.05.1998 in favour of her daughter. Therefore, in order to confront the complaint and to elicit the truth, the mother of the plaintiff is required to be summoned to give evidence. He further submits that

the plaintiff got issued legal notice marked as Ex.B-12 and in the said notice also, the claim of the plaintiff is that the deceased first defendant executed an unregistered gift cum settlement deed in respect of the plaint schedule property and the execution of sale letter by the deceased 1st defendant, was not mentioned. Learned counsel submits that the plaintiff in her evidence, has denied the issuance of legal notice under Ex.B-12 and in the evidence, her counsel has put a suggestion that the said legal notice was issued at the instance of the father of plaintiff. Therefore, to elicit the said fact, examination of the father of the plaintiff is necessary. With these submissions, learned counsel sought to allow the I.A. filed by the petitioner before the court below as prayed for.

From the material on record and the impugned order, it could be seen that the complaint stated to have been filed by the mother of the plaintiff, was already marked and the Advocate, who is said to have issued legal notice under Ex.B-2, is allowed to be summoned and examined. As there is documentary evidence on record, the trial court rightly held that documentary evidence prevails over oral evidence. Further, the suit is of the year 2010 and the present application was filed during the year 2018, at the far end of trial. Therefore, considering these facts and circumstances, the trial court rightly passed the impugned order. I do not find any reason to interfere with the impugned order in the revision, by exercising jurisdiction under Article 227 of the Constitution of India.

The revision is devoid of any merit and the same is accordingly dismissed at the stage of admission.

Interlocutory applications pending, if any, shall stand closed.

No costs.

A.RAJASHEKER REDDY,J

DATE:04—12—2018

AVS

