

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

CRP.No.115 of 2019

ORDER :

This Civil Revision Petition is filed assailing the order dt.17.12.2018 passed in I.A.No.335 of 2018 in O.S.No.76 of 2016 on the file of Senior Civil Judge, at Huzurabad.

2. The respondent filed the said suit for specific performance of contract on the basis of an agreement of sale.

3. Later she withdrew the suit.

4. Thereafter, the petitioner, who was defendant in the said suit filed I.A.No.335 of 2018 invoking Order XIII Rule 8 of Civil Procedure Code, 1908 seeking a direction to impound the agreement-of-sale filed by the respondent in the suit and to keep it in the custody of the office of the Court till the documents are called for evidence in all other cases relevant or connected to the said document.

5. The petitioner contended that the said document is a forged document.

6. The respondent denied the contentions of petitioner and pointed out that the suit was dismissed as withdrawn in 2018, and if really the said document was forged, the petitioner would have taken steps and should have filed a separate petition for sending the document to an expert for opinion. She further contended that she had withdrawn the suit for filing a fresh suit for recovery of money against the petitioner

by paying deficit stamp duty and penalty, and for that purpose only she intended to receive the documents filed by her in O.S.No.76 of 2016.

7. By order dt.17.12.2018, the Court below dismissed the said I.A.

8. It observed that petitioner failed to submit what are the cases pending with regard to the said document, and he did not also take any steps to file any criminal cases against petitioner even after lapse of two years of filing of the suit O.S.No.76 of 2016. It also noted that the suit itself was not pressed by respondent with the leave of the court to file fresh suit; at this point of time, the document had not become void or useless by force of any decree as contended by the petitioner; and the document can only be returned to the respondent for filing a fresh suit by paying deficit stamp duty and penalty.

9. Assailing the same, the present Civil Revision Petition is filed.

10. The counsel for petitioner reiterated the contentions raised in I.A.No.335 of 2018, and contended that the Court below ought to have allowed the said I.A. instead of dismissing it. He also stated that the petitioner intends to initiate criminal proceedings against the respondent for filing such a forged document in the Court.

11. Admittedly, the present suit, filed in the year 2016 on the basis of the document-in-question, had been dismissed as withdrawn with leave of the Court to file a fresh suit at the instance of respondent / plaintiff.

12. During the pendency of the suit or even after the suit has been withdrawn, the petitioner had taken no steps to send the document to an expert to determine that it is a forgery nor did he file any criminal case against the respondent.

13. The 2nd Proviso to Order XIII Rule 9 of Civil Procedure Code is not attracted because the document-in-question had not been declared by force of a decree, as void or useless since there is no decree in favour of respondent at all, the suit having been withdrawn with liberty to file a fresh suit.

14. I therefore do not find any merit in the Revision, and it is accordingly dismissed at the stage of admission. No order as to costs.

15. As a sequel, miscellaneous petitions pending if any in this Civil Revision Petition, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 29.01.2019

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