

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

C.R.P.No.352 of 2019

ORDER:

This Revision is filed assailing the order dt.16.11.2018 in I.A.No.308 of 2018 in O.S.No.238 of 2002 of the II Additional Senior Civil Judge, Ranga Reddy District.

2. Petitioner is the plaintiff in the above suit. She filed the said suit for specific performance of an agreement of sale dt.23.07.1993 allegedly executed in her favour by defendants 1 to 8 in the suit/respondents.

3. Admittedly, the suit schedule property is owned by the defendants 1 to 4 and they had executed a General Power of Attorney in favour of defendants 5 to 8 on 27.01.1993 and this fact was mentioned in para 2 of the plaint also.

4. In 2008, six years after the suit was filed, petitioner filed an application IA.No.221 of 2008 to receive certified copy of a General Power of Attorney but did not furnish the details of the document.

5. That application was allowed on 31.07.2008 by the trial Court, but defendants 1 to 4 challenged it in CRP.No.4840 of 2008.

6. The said CRP was allowed on 25.01.2010 holding that in the application filed by the petitioner no details of the document which is sought to be submitted, were given, and it was not open to the petitioner to introduce any document which is not related to the suit transaction. However, liberty was given to the petitioner to file a

fresh application before the trial Court along with a detailed affidavit indicating the details of the document sought to be received and reasons to receive the same.

7. Though this order was passed in the CRP.No.4850 of 2008 on 25.01.2010, petitioner waited for 7 years and filed on 12.12.2017 I.A.No.308 of 2018 invoking Order VII Rule 14 CPC seeking to file certified copy of the General Power of Attorney dt.27.01.1993 executed by defendants 1 to 4 in favour of defendants 5 o 8.

8. In the affidavit filed in support of the said application, petitioner relied on the order dt.25.01.2010 in CRP.No.4850 of 2008 and contended that petitioner was not aware of the said order; that she changed her counsel subsequently and also brought to the notice of the new counsel the order passed in CRP.No.4850 of 2008; that the said General Power of Attorney ought to be received in evidence; and if not, irreparable loss and injury would be caused to her.

9. This application was opposed by respondents 1 to 3 who contended that there was no explanation for the delay of 8 years in filing the said application after the CRP was disposed of by this Court. It was also pointed out that the suit schedule property was located in survey Nos.15 and 17, while the General Power of Attorney sought to be submitted and marked is with respect to survey Nos.5 & 7, and that the said General Power of Attorney has no connection with the suit transaction.

10. By order dt.16.11.2018, the Court below rejected the said application stating that after eight years of the decision in the CRP, this application has been filed, and petitioner's contention that she was not aware of the order passed in the CRP cannot be accepted. It also held that General Power of Attorney in question does not relate to the suit schedule property.

11. Assailing the same, this Revision is filed.

12. Counsel for petitioner sought to contend that the failure of the Court below to allow the petitioner to submit the said General Power of Attorney causes grave prejudice to the petitioner.

13. Firstly, in the plaint itself there is a reference to a General Power of Attorney dt.23.07.1993 executed by defendants 1 to 8 in favour of the plaintiff, but the said General Power of Attorney has not been filed along with the plaint.

14. Secondly, petitioner had subsequently filed I.A.No.221 of 2008 without giving details of the General Power of Attorney which she seeks to file. Though the Trial Court allowed the said I.A., on 31.07.2008, the said order was set aside on 25.01.2010 in CRP.No.4850 of 2010 granting liberty to the petitioner to file a fresh application indicating the details of the document which she sought to be received.

15. Almost 8 years thereafter, on 12.12.2017, petitioner had filed I.A.No.308 of 2018 claiming that she was not aware of the order passed in the CRP and that she came to know about it only on

30.11.2017. The said contention was rightly rejected by the Court below as petitioner, having been a party in the CRP, cannot claim ignorance of the said order.

16. Also the contents of the General Power of Attorney sought to be marked indicate that the subject matter in the said document is different from the suit schedule property.

17. I therefore do not see any error of jurisdiction in the order passed by the Court below warranting interference by this Court under Article 227 of the Constitution of India.

18. Accordingly, this Civil Revision Petition is dismissed. No order as to costs.

19. Consequently, miscellaneous petitions pending if any shall stand dismissed.

M.S. RAMACHANDRA RAO, J

20th February, 2019.

gra