THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

Civil Revision Petition No.269 of 2019

ORDER :

This Civil Revision Petition is filed under Article 227 of the Constitution of India challenging the Docket Order dt.26.10.2018 passed in I.A.No.255 of 2018 in O.S.No.48 of 2007 on the file of the Senior Civil Judge, at Jagtial.

2. The petitioner in this Revision is the 2nd plaintiff in the suit.

3. The said suit was filed by the deceased-1st plaintiff against the respondent for specific performance of an agreement of sale dt.23.10.1996 in respect of undivided 1/3rd share in the plaint schedule property and for a perpetual injunction restraining the respondents from interfering with the alleged peaceful possession and enjoyment of the 1st plaintiff over the said property.

4. Pending suit, the 1st plaintiff died, and the petitioner and respondent nos.5 and 6 were impleaded as legal representatives of the deceased-1st plaintiff.

5. At the stage when the evidence of plaintiffs was almost completed, the petitioner / 2nd plaintiff filed on 9.3.2018, I.A.No.255 of 2018 under Order VII Rule 14 (3) of Civil Procedure Code, 1908 on her behalf and on behalf of respondent nos.5 and 6 contending that the suit is posted for her further evidence and she is filing Income Tax Returns with payment challans and acknowledgments for the year

2000-01 and 2001-02 submitted by the deceased-1st plaintiff before the Income Tax Office, Karimnagar. She stated that the 1st plaintiff died on 03.05.2015 and on 08.03.2018, the said documents were traced in the house of 1st plaintiff and so they could not filed them earlier.

6. Counter-affidavit was filed by the 1st respondent opposing the said application and contending that the trial of the suit had begun and the evidence of plaintiffs was almost completed, and at this stage the documents cannot be received; that the Income Tax Returns and payment challans are not concerned in anyway with the plaint schedule property; that they are not certified copies issued by the Income Tax Department and they are totally irrelevant; and that the delay in filing the documents is not explained properly.

7. By order dt.26.10.2018, the Court below dismissed the said application. After referring to the contentions of the parties, it held that the suit was filed in the year 2007 and the documents now sought to be filed pertain to the years 2000-01 and 2001-02, and the documents had been filed at the fag end of the evidence of the plaintiff; that if the 1st plaintiff was a little vigilant, she would have filed these documents along with the plaint; and the Court cannot assume that 1st plaintiff was not aware of her income tax since they were within her reach when the suit was filed. It observed that no reason was stated why the 1st plaintiff did not file these documents during her lifetime, and if they are useful to prove her case she would have filed the same, and the 2nd plaintiff cannot be permitted to file the said documents. It also observed that the parties to a suit have to file documents along with their pleadings and only in exceptional circumstances leave can be granted to file documents at a later stage; and so the petitioner did not make out the case for receiving the said documents.

8. Assailing the same, the present Civil Revision Petition is filed by the 2nd plaintiff.

9. The counsel for petitioner contended that without these documents, i.e., Income Tax Returns / acknowledgements for the years 2000-01 and 2001-02 were public documents, and the Court below ought to have received the same. It was pointed out that these documents were traced only on 08.03.2018 in the house of the deceased-1st plaintiff, and so could not be filed earlier. According to the 2nd plaintiff/petitioner, these documents were necessary to prove that the deceased 1st plaintiff received the lease rent from M/s. Lakshmi Poultry Farm located in the suit property and therefore, the order of the Court below deserves to be set aside.

10. The counsel also contended that there was a poultry farm located on the premises which was being run by the deceased-1st plaintiff and the mother of the 1st respondent, and that the said Poultry Farm was M/s. Lakshmi Poultry Farm which ceased its business from 1998.

11. Admittedly, the suit was filed in the year 2007 for specific performance of the agreement of sale dt.23.10.1996, allegedly executed by the mother of the defendants. The 1st plaintiff, who had initially filed the suit in the year 2007, died on 03.09.2015. After she died, the 2nd plaintiff / petitioner filed application under Order VII Rule 14 (3) C.P.C. to receive the income tax returns for the years 2000-01 and 2001-02 of the 1st plaintiff ostensibly in support of the plea of the 1st plaintiff that she received rent from M/s. Lakshmi Poultry Farm located in the suit schedule property.

12. These documents had not been filed during the lifetime of the 1st plaintiff. No doubt, the petitioner had stated that these documents were located only on 08.03.2018 and so could not be filed earlier, but the 1st plaintiff had possession of these documents even prior to the filing of the suit, but did not file them along with the plaint.

13. The petitioner has not assigned any reason why the 1st plaintiff did not file them along with the plaint.

14. As per Order VII Rule 14 (1) of C.P.C., a plaintiff has to file all the documents on which he relies in support of his claim along with his plaint. Under Clause (3) of Rule 14, without leave being granted by the Court, he will not be permitted to submit documents at a later stage of the suit.

15. In the absence of any valid reason assigned by the petitioner as to why the 1st plaintiff did not file her income tax returns and acknowledgment challans along with the plaint, I am of the opinion that the Court below did not commit any error of jurisdiction in refusing to receive the said documents which were filed eleven years after the suit was filed at the stage when the evidence of plaintiffs was almost coming to an end.

16. Accordingly, the Civil Revision Petition fails, and it is accordingly dismissed. No order as to costs.

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

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JUSTICE M.S.RAMACHANDRA RAO

Date: 28.02.2019
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