

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

CIVIL REVISION PETITION No.1001 of 2019

ORDER :

This Civil Revision Petition is filed challenging the order dt.28-03-2019 in I.A.No.80 of 2019 in O.S.No.210 of 2013 of the Principal Junior Civil Judge at Kothagudem.

2. Petitioner herein is plaintiff in the said suit.

3. He filed the said suit for specific performance of an agreement of sale dt.06-03-1996 allegedly by executed by 1st respondent in his favour agreeing to sell the plaint schedule property to him for Rs.50,000/-, and contending that the entire consideration was paid. It is also contended that 1st respondent delivered possession of the property to him, but the 1st respondent was not cooperating for execution of registered sale deed in his favour. He also alleged that 1st respondent executed a registered gift settlement deed dt.02-03-2012 to the 2nd respondent, who is his daughter; that the respondent Nos.1 and 2 colluded with each other and brought that gift settlement deed into existence; that he came to know about it when 1st respondent filed written statement; and so the said document was not binding on him. This plea was included by way of amendment to the plaint.

4. Written statement was filed by 1st respondent opposing the suit claim, and denying that he had executed the suit agreement of sale agreeing to sell the plaint schedule property to the petitioner. He also

denied delivery of possession of the property to the petitioner, and contended that petitioner is not in peaceful possession and enjoyment of the property. He also stated that he gifted the suit schedule property to the 2nd respondent on 02-03-2012 under a registered document and she is in possession and enjoyment of the same.

5. Pending suit, the petitioner filed I.A.No.80 of 2019 stating that he already filed pahani extracts for the year 2006-07, 2007-08, 2008-09 and 2009-10, online pahani extract for the year 1422 Fasli; that after purchasing the suit schedule property, he was also admitted as a member of the Primary Agricultural Credit Society, Kothagudem (PACS) and the Society issued Kisan Credit Card in his favour in respect of the suit schedule property; that he availed loan facility from 2012 till date; that the Telangana Government had regularised the sale under Sada Bainama Scheme and issued pattedar pass book/title deed with khata No.3085 in respect of the suit land; that his name is also entered as pattedar/occupant in the revenue pahani for the year 2017, which he obtained from Mee Seva; that the Telangana Government also deposited Rs.4,000/- into his bank account under Rytu Bandhu Scheme; that these documents clearly show his possession and enjoyment of the suit land under the suit agreement of sale dt.06-03-1996 and recognition of his possession by the Government. He also stated that he could not file these documents earlier since they were kept in the office of the PACS and he obtained

them recently. He therefore requested that the said documents be received in evidence invoking Order VII Rule 14(3) C.P.C.

6. Counter-affidavit was filed by 1st respondent opposing this application, contending that the suit is filed for specific performance of the alleged agreement of sale; that title to the property vests with the 1st respondent; and so grant of title deed and pattadar passbook by the Government, as if petitioner is the owner of the property and implementing it in the revenue records, is an illegal act. He contended that the Revenue authorities had to provide said records to the rightful owner on the basis of registered document only as per the Andhra Pradesh Rights in Land and Pattadar Passbooks Act, 1971 and the petitioner played fraud on the Government officers and got the said documents. He therefore contended that the documents which are brought into existence without following due process of law are *non est* in the eye of law and there is no obligation on the Courts to act upon them. He contended that the suit is to be adjudicated on the documents which are already on record and the documents sought to be filed by petitioner are in no way concerned with the disposal of the suit. He also contended that there is no explanation on the part of the petitioner why he has not filed the same along with the suit.

7. By order dt.28-03-2019, the Court below dismissed the said application. It noted that the said application was filed at the final stage of arguments; that the documents indicate that petitioner is unable to show that these documents were kept with the PACS and

they were recently issued to him; none of these documents were referred into in the pleadings of the petitioner; and therefore they are not required to be received. It also observed that when the matter is listed for arguments, petitioner has filed this application without seeking reopening of the evidence of petitioner and so petitioner did not make out any case for receiving these documents.

8. Assailing the same, this Revision is filed.

9. Learned counsel for petitioner contended that the impugned order of the Court below is contrary to law and is unsustainable; that gross prejudice would be caused to the petitioner if these documents are not received; and the Court below cannot refuse to receive the documents on the ground that they are not mentioned in the plaint.

10. Admittedly, the suit is posted for final arguments and I.A.No.80 of 2019 has been filed at that stage.

11. The suit is filed for specific performance of an agreement of sale dt.06-03-1996 and therefore the question to be gone into in the suit is 'whether the 1st respondent had executed the said agreement of sale in favour of petitioner?' and 'whether the petitioner had showed readiness and willingness entitling him to the relief in the suit?'.

12. Petitioner had filed pahanis from 2006 to 2010 and online pahani extract for 1422 Fasli which are marked as Exs.A-4 and A-5 to prove his possession. According to petitioner, the documents which

he intends to file are also in support of his case that he is in possession of the suit schedule property.

13. In my considered opinion, some of the documents sought to be filed were in existence even before filing of the suit i.e. Kisan Credit Card issued to the petitioner; though the other documents sought to be marked by petitioner had come into existence during pendency of the suit, and therefore might not have been referred to in the plaint. The petitioner's contention that these documents were in the custody of the PACS and therefore could not be filed earlier is not established.

14. In any event, it is highly doubtful whether the title deed could have been issued to the petitioner by the State Government as if he is the owner of the property when the suit for specific performance is still pending.

15. In my opinion, none of the documents sought to be filed would have any bearing on the issues which have to be decided in the suit wherein the entitlement of the petitioner to the specific performance of the suit agreement of sale, would be decided.

16. As rightly observed by the Court below, mere filing of these documents would not be adequate and even if they are filed, petitioner did not seek for reopening of the evidence of petitioner and for recall of P.W.1, and at this belated stage, such course of action cannot be permitted.

17. I therefore do not find 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 the Civil Revision Petition fails and it is dismissed.
No costs.

19. As a sequel, the miscellaneous petitions, if any pending, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 04-06-2019

Vsv

