

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

CIVIL REVISION PETITION No.1147 OF 2019

ORDER:

This revision, under Article 227 of the Constitution of India, is filed by the petitioner/plaintiff aggrieved by the order dated 07.03.2019 passed in I.A.No.62 of 2019 in O.S.No.17 of 2011 by the Senior Civil Judge, Jangaon, whereby, the application filed by the revision petitioner/plaintiff requesting to issue summons to the Tahsildar, Cherial, to produce some documents, was dismissed.

2. Heard learned counsel for the revision petitioner, learned counsel for respondent Nos.12 and 13 and perused the record.

3. Learned counsel for the revision petitioner/plaintiff would contend that the revision petitioner/plaintiff has filed a suit for partition and separate possession in respect of the suit schedule land. The respondents made a false claim and contended that the suit schedule property in question is their self acquired property. The documents filed by them before the Mandal Revenue Officer/Tahsildar were fabricated. Therefore, to prove the suit claim, it is essential to direct the authority concerned to produce the following document Nos.1 to 3:

- 1) Simple sale deed dated 05.05.1978
- 2) Simple sale deed executed on Sri Kalayukthi Nama Samvatsara Vyshaka Shudda Dashimi.
- 3) Receipt executed on Sri Kalayukthi Nama Samvatsara Vyshaka Shudda Dashimi.

Learned counsel for the petitioner did not press for the fourth document i.e, Statement (Vaghumulam) of third parties recorded by Revenue authorities on 01.02.2011, since it was already produced and marked before the Court below and contended that the aforesaid documents are necessary for determination of the issues in the suit and ultimately prayed to set aside the impugned order and allow I.A.No.62 of 2019 as prayed for.

4. On the other hand, learned counsel for respondent Nos.12 and 13 would contend that the petitioner produced the certified copies of the aforesaid documents. Therefore, there is no need of calling for the original documents.

5. In the course of submissions, it is brought to the notice of this Court that the revision petitioner had obtained the certified copies of all the documents. However, document Nos.1 to 3 were not marked in evidence, as they were not sufficiently stamped except the fourth document. The subject suit is filed for partition and separate possession. Since there is a serious dispute between the parties with regard to the nature of acquisition of the suit schedule land, the original documents are required to be examined.

6. Under these circumstances, the Tahsildar, Cherial, is directed to produce the originals of document Nos.1 to 3, i.e., 1) Simple sale deed dated 05.05.1978, 2) Simple sale deed executed on Sri Kalayukthi Nama Samvatsara Vyshaka Shudda Dashimi and 3) Receipt executed on Sri Kalayukthi Nama Samvatsara Vyshaka Shudda Dashimi, in O.S.No.17 of 2011 on

the file of the Senior Civil Judge, Jangaon, within fifteen days from the date of this order. On production of such documents, the Court below has to mark the same as evidence, in accordance with the procedure established under law, i.e., subject to payment of deficit stamp duty, etc.

7. Accordingly, the Civil Revision Petition is ordered.

The Miscellaneous Petitions, if any, pending shall stand closed. No costs.

Date: 29.11.2019
ssp

Dr. SHAMEEM AKTHER, J

