

HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

C.R.P.No.1850 of 2018

ORDER:

This Revision is filed under Article 227 of the Constitution of India challenging the order dated 01.02.2018 in I.A.No.53 of 2018 in O.S.No.681 of 2011 of the Principal Junior Civil Judge, Warangal.

2. The petitioners are defendants in the suit.
3. The respondent filed the said suit against the petitioners for perpetual injunction restraining the petitioners from interfering with his alleged peaceful possession and enjoyment of the plaint schedule property.
4. The Written Statement was filed by the petitioners on 29.11.2011. But, no documents were filed along with the written statement. After the evidence of P.W.1 was completed, the petitioners filed I.A.No.53 of 2018 under Order VIII Rule 1-A (3) C.P.C. seeking grant of leave to produce six documents.
5. In the affidavit filed in support of the said application, it was clearly stated that these documents were referred to in the pleadings of the petitioners, but they were not traceable at the time of filing of the written statement, and since they are very much necessary for deciding the suit, the delay in filing the documents be condoned and they may be received in evidence.
6. Counter-affidavit was filed by the respondent opposing the said application. It was contended that most of the documents now sought to be filed are subsequent to the filing of the suit and some of

them are fabricated documents and, therefore, they cannot be received in evidence. It was also pointed out that the respondent had already been examined as P.W.1 and the documents were not disclosed at the time of his cross-examination and they are created only for the purpose of the case. It was also contended that there was no valid explanation for the delay in filing the documents.

7. By order dated 01.02.2018, the Court below dismissed the said application. It held that there was no mention of these documents anywhere in the written statement filed by the petitioners; the certified copies of the two documents seem to have been obtained prior to the filing of the written statement, but the petitioners did not disclose the reason for not referring them so far. It further held that in the suit, P.Ws.1 and 2 were examined and at this stage the petitioners cannot be allowed to file the documents now sought to be filed along with the I.A.No.53 of 2019.

8. Challenging the same, this Revision is filed.

9. Though the learned Counsel for the petitioners sought to contend that failure to receive the documents would cause grave prejudice to the petitioners since they were very much necessary to establish the case of the petitioners, the fact remains that two of the documents which are sought to be filed are certified copies of the registered sale deeds dated 26.07.1989 and 14.08.2008 and both of them had been referred to in the written statement. Therefore, the petitioners must have had the possession of the said documents at the time of drafting of the written statement. He, therefore, cannot

contend that they were not traceable at the time of filing of the written statement.

10. As regards the other documents, two of which are legal notices and the other are acknowledgment cards and original postal receipts, they are all subsequent to the filing of the suit. Admittedly, the evidence of P.Ws.1 and 2 had already been concluded and prejudice will be caused to the respondent if they are received now. Therefore, at this stage, these documents now sought to be filed cannot be received in evidence, particularly when the petitioners have been negligent in filing the same along with the written statement.

11. 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.

12. Accordingly, the Civil Revision Petition is dismissed. No order as to costs.

As a sequel, miscellaneous petitions pending, if any, in this revision shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

15.02.2019
Gsn