

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

CIVIL REVISION PETITION No.1251 of 2019

ORDER:

This Civil Revision Petition, under Article 227 of the Constitution of India, is filed by the petitioners/defendants, aggrieved by the order, dated 29.04.2019, passed in I.A.No.407 of 2019 in O.S.No.21 of 2016 by the Principal District Judge, Nalgonda, wherein the petition filed by the petitioners/defendants under Order VIII Rule 1 (iii) read with Section 151 of the Code of Civil Procedure, 1908, to receive the documents mentioned in the list of documents by condoning the delay, was dismissed.

2. Heard the learned counsel for the revision petitioners/defendants and perused the record. No representation for the respondents/plaintiffs.

3. Learned counsel for the petitioners/defendants would submit that the petitioners/defendants filed Written Statement in the subject suit in O.S.No.21 of 2016, wherein petitioner No.1/defendant No.1 mentioned that he was major at the time of purchase of suit 'B' schedule property under a registered Sale Deed, vide document No.797 of 1968, dated 17.10.1968. It is also contended that petitioner No.1/defendant No.1 is a Government employee and his Service Book Register also substantiates his age. But, unfortunately, he could not file his HSC Certificate and extract of Service Book Register along with the Written Statement in the subject suit and ultimately, prayed

to set aside the impugned order and allow I.A.No.407 of 2019 as prayed for.

4. The subject suit in O.S.No.21 of 2016 was filed seeking the relief of partition and separate possession of the suit schedule properties. The said suit is coming up for evidence of petitioner No.1/defendant No.1. At the time of filing of written statement, petitioner No.1/defendant No.1 could not file certain documents, namely, HSC certificate and Service Book Register. The date of birth/age of petitioner No.1/defendant No.1 has a bearing on the determination of the subject suit. The documents, i.e., HSC Certificate and Service Book Register of petitioner No.1/defendant No.1 are relevant for the purpose of just and complete adjudication of the subject dispute. Merely because petitioner No.1/defendant No.1 could not file the said documents along with the Written Statement in the subject suit, his right of filing those documents cannot be denied. The Court below ought to have considered the request made by the revision petitioners/defendants. Under these circumstances, the impugned order is liable to be set aside.

5. Accordingly, the Civil Revision Petition is allowed by setting aside the order, dated 29.04.2019, passed in I.A.No.407 of 2019 in O.S.No.21 of 2016 by the Principal District Judge, Nalgonda. Consequently, I.A.No.407 of 2019 stands allowed as prayed for. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this revision petition shall stand closed.

Dr. SHAMEEM AKTHER, J

3rd December, 2019

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Date:03.12.2019

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