

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

Civil Revision Petition No.1428 of 2019

ORDER:-

This Revision is filed assailing order dt.29.03.2019 in I.A.No.2155 of 2018 in O.S.No.1568 of 2009 of the IX-Additional Senior Civil Judge, L.B.Nagar, Ranga Reddy District.

2. Petitioners herein are defendants 1 and 3 in the suit.

3. Respondent No.1 filed the said suit against the petitioners and the 2nd respondent for perpetual injunction restraining the petitioners and the 2nd respondent from interfering with his alleged possession and enjoyment of the suit schedule property which is an open plot.

4. According to the 1st respondent, his father had purchased the property from its previous owner under a registered document dt.30.09.1985 for consideration, and from the date of purchase of his father, he was in peaceful possession and enjoyment of the said property. He alleged that his father died on 08.06.2006 and he inherited the same. Along with the plaint, he filed the original sale deed dt.30.09.1985 and also copies of G.P.As. No.75/1984 and 77/1984, which are the basis on which the vendor under the said document conveyed title to the 1st respondent's father.

5. During the course of trial, when the witness for the 1st respondent was being cross-examined, it was discovered that documents No.75/1984 and 77/1984, which are mentioned in the sale deed dt.30.09.1985, in fact, do not relate to the said property, but relate to property which is located elsewhere.

6. The 1st respondent then filed I.A.No.2155 of 2018 on 06.12.2018 to receive certified copy of Document No.76 of 1984 along with a deed of declaration dt.03.12.2018. He contended that this document is the G.P.A. and it is the actual link deed to the sale deed dt.30.09.1985; during the course of trial, it was discovered that G.P.A.Nos.75 of 1984 and 77 of 1984 are not connected to the said sale deed and it was this G.P.A. which was connected with it; that it was then traced out and copy obtained. He also stated that he and his mother also obtained a link document dt.03.12.2018 which is a deed of declaration. He alleged that these two documents are crucial to the case and they ought to be received.

7. Counter was filed by the petitioners and 2nd respondent opposing the said application. They even denied that Document No.76 of 1984 is the link document to the sale deed dt.30.09.1985 on which the 1st respondent was relying. They contended that the declaration deed is not valid in Law because there is no rectification of the sale deed. However, it is admitted that at the time of cross-examination of PW.1, it was elicited that Ex.A.6- Document No.75 of 1984 did not pertain to the suit schedule property.

8. By a cryptic order dt.29.03.2019, the Court below allowed the said application on payment of costs of Rs.50/-. No reasons are mentioned in the said order for allowing I.A.No.2155 of 2018.

9. Assailing the same, this Revision is filed.

10. Counsel for the petitioners contended that valid reason was not given by the 1st respondent for filing these documents belatedly under Order VII Rule 14(3) C.P.C. and the Court below could not have allowed the said application without giving reasons.

11. Counsel for the 1st respondent supported the order passed by the Court below.

12. From the counter affidavit filed by the petitioners in I.A.No.2155 of 2018, it is clear that at the time of cross-examination of P.W.1, the petitioners had elicited that Ex.A.6-G.P.A. (i.e.) Document No.75 of 1984 did not relate to the sale deed dt.30.09.1985 on which the 1st respondent placed reliance.

13. According to the Counsel for the 1st respondent, there appears to be an error in the sale deed dt.30.09.1985 in mentioning G.P.A.Nos.75 of 1984 and 77 of 1984 instead of G.P.A.No.76 of 1984, which was discovered only during the course of trial, and then enquiries were made and the said document was procured.

14. Since the 1st respondent could not have anticipated this event at the time of filing of the plaint, the 1st respondent cannot be expected to file the said document No.76 of 1984 along with the plaint. In any event, deed of declaration dt.03.12.2018 is a document which came into existence subsequent to the filing of the suit and merely because it is received in evidence, no prejudice would be caused though its validity, relevancy and admissibility would have to be gone into by the Court below at the appropriate stage. In this view of the matter, though the order passed by the

Court below is cryptic, since the conclusion arrived at by it does not appear to be erroneous, I do not wish to interfere with it in exercise of the jurisdiction conferred on the Court under Article 227 of the Constitution of India.

15. The Revision accordingly fails and is dismissed. No costs.

Consequently, miscellaneous petitions if any pending in the Civil Revision Petition shall stand dismissed.

M.S.Ramachandra Rao, J

6th August, 2019

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