

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

C.R.P.No.1438 of 2019

ORDER:

This civil revision petition is filed questioning the order dated 02.04.2019 passed in I.A.No.81 of 2019 in O.S.No.32 of 2008 by the Junior Civil Judge, Wanaparthy, allowing the petition filed by the respondents/defendants herein seeking to summon the documents filed in O.S.No.185 of 2007 on the file of the Junior Civil Judge, Wanaparthy.

2. The case of the respondents herein is that they filed O.S.No.185 of 2007 for perpetual injunction against one Boya Balaswamy, who is said to be vendor of plots of petitioners/plaintiffs in O.S.No.32 of 2008 and that the relevant documents filed in O.S.No.185 of 2007 were marked as Exs.A1 to A15. The further case of the respondents is that as the said documents are required for the purpose of evidence in O.S.No.32 of 2008 filed by the petitioners/plaintiffs herein seeking injunction against them, the efforts made by them once again to obtain the certified copies from the public authorities have not yielded fruits. In those circumstances, they filed the impugned application to summon the said documents from the file of O.S.No.185 of 2007 for marking as exhibits in O.S.No.32 of 2008 on the file of the Junior Civil Judge, Wanaparthy.

3. The contention of the learned counsel for the petitioners is that the trial Court has not taken into consideration the fact that the respondents have failed to state the bona fide requirement for summoning those documents. It is also the contention of the

learned counsel that the respondents could have obtained the certified copies from either the public authorities or the trial Court rather than seeking to summon the same.

4. Having considered the submissions made by the learned counsel for the petitioners, admittedly, O.S.No.185 of 2007 and O.S.No.32 of 2008 are pending before the Junior Civil Judge, Wanaparthy and that the respondents herein filed O.S.No.185 of 2007 for injunction against one Boya Balaswamy and the same is pending. In the said suit, the documents filed by them were marked as Exs.A1 to A15. The case of the respondents is that in O.S.No.32 of 2008 filed by the petitioners herein against them for perpetual injunction, the documents filed in O.S.No.185 of 2007 are essential for marking as exhibits. It is also their specific case that the efforts made by them to obtain the certified copies once again from the public authorities are not yielding any result as they are not cooperating. In those circumstances, this Court can take judicial note of the fact that it is difficult for the parties to obtain the certified copies from the public authorities, particularly, the revenue department. The availability of the respondents being agriculturists to approach the revenue authorities for obtaining the certified copies, once again, can well be understood by this Court. Further, the trial Court, after considering the fact that O.S.No.185 of 2007 is pending before the same Court, held that it is just and necessary to call for the documents from the file of O.S.No.185 of 2007 to be marked as exhibits in O.S.No.32 of 2018. However, as the documents were already marked as Exs.A1 to A15 in O.S.No.185 of 2007, in stead of calling for the documents, the trial Court could have tried both the

suits together as the subject matter being the same i.e., land though the parties are different. The respondents herein filed the suit for injunction against the third party and the petitioners herein filed the suit for injunction against the respondents herein.

5. As the parties did not choose to approach the trial Court, this Court deems it appropriate to modify the order impugned to the extent that the trial Court shall prepare the certified copies of Exs.A1 to A15 in O.S.No.185 of 2007 to be marked as exhibits in O.S.No.32 of 2008. It is made clear that this Court has not expressed any opinion with respect to the relevancy and proof of the said documents and those issues are required to be considered during trial.

6. Subject to the above, the Civil Revision Petition is disposed of. No order as to costs.

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

CHALLA KODANDA RAM, J

24th June, 2019

sj