

THE HONOURABLE SRI JUSTICE M.S. RAMACHANDRA RAO

C.R.P.Nos.1532 and 1554 of 2019

COMMON ORDER:

These two Revisions arise out of the same suit between the same parties and so they are being disposed of by this common order.

2. Petitioner is plaintiff in the suit.
3. She filed the said suit against respondents for partition of the suit schedule properties seeking 1/9th share to herself and for possession of her share.
4. Written statement was filed by respondents opposing the suit claim.
5. During the course of trial, respondents Nos.1 to 7 asserted in their written statement that original documents relating to the suit schedule properties were burnt by extremists in 1999 and the father of the petitioner lodged a complaint with police and it was registered as Cr.No.66/1999 on 13-12-1999 by the Station House Officer, P.S. Mutharam (Manthani); that when P.W.1 i.e. petitioner was confronted with the family arrangement, she refused to identify the signature of her husband on the said family arrangement deed attested allegedly by her husband; therefore it is just and necessary to receive the final report in F.I.R.No.66/1999 dt.13-12-1999 from the Judicial First Class Magistrate, Manthani, which indicates about the alleged police complaint and burning of the house of petitioner's father.

6. Respondent Nos.1 to 7 therefore filed I.A.No.211 of 2019 to receive said documents invoking Order VIII Rule 1-A(3) C.P.C.

7. They also filed I.A.No.88 of 2019 to mark certain news items published in Vaartha and Eenadu Telugu daily newspapers of 15-12-1999 disclosing that extremists have burnt the house of petitioner's father and which contained photographs showing the presence of petitioner at the spot near the burnt house. They contended that a sale deed was executed by the husband of petitioner and his signature therein can be used for comparison of his signature on the family arrangement deed attested by him and so these documents may also be received in evidence.

8. Counter-affidavit was filed by petitioner opposing both the applications and contending that these documents are wholly irrelevant to the case and cannot be received by the Court because they were not filed before the chief-examination affidavit was filed by P.W.1.

9. By separate orders dt.01-04-2019, the Court below allowed both the applications. After considering the contentions of the parties, the Court below held that no prejudice would be caused to the petitioner if the said documents are received and the plea of the respondents that they could not file the said documents earlier because they could not be secured at that point of time, is an acceptable reason.

10. Assailing the same, these Revisions are filed.

11. Learned counsel for petitioner contends that the orders passed by the Court below are not sustainable because the documents in question were not sought to be filed by respondent Nos.1 to 7 before the trial commenced.

12. In my opinion, commencement of trial is not relevant for filing documents at a later stage. Admittedly, denial by petitioner of the burning of her father's house as well as signature of her husband on the family arrangement deed only occurred during trial, but it could not have been anticipated by respondent Nos.1 to 7 when they filed the written statement. Therefore they had a valid reason for not filing these documents with the written statement and filed the application only after the said issues were spoken to by P.W.1 in order to rebut the stand taken by petitioner. Therefore, no exception can be taken to the orders passed by the Court below.

13. Accordingly, these Civil Revision Petitions fail and they are dismissed at the admission stage. No costs.

14. As a sequel, the miscellaneous petitions, if any pending, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 10-07-2019

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