

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

CRP.No.159 of 2016

O R D E R:

This Revision is filed under Article 227 of the Constitution of India challenging the order dt.27.07.2015 in I.A.No.423 of 2015 in O.P.No.139 of 2014 of the Senior Civil Judge, Medchal, Ranga Reddy District.

2. Petitioner is the plaintiff in the above suit.
3. He filed the said suit against the respondents for recovery of money from the respondents alleging that respondents took a hand loan from him on 10.08.2009 and executed a receipt but did not repay the same.
4. Written statement was filed by the respondents refuting the said contentions. They contended that the parties know each other and they own agricultural land of an extent of Acs.3.30 gts in survey No.119/part situated at Pothaipalli village; that there was a litigation with the revenue department of the erstwhile State of A.P.; and that the petitioner agreed to clear all the litigation and to purchase the property for Rs.25 lakhs and obtained an unregistered Sale Deed from the respondents and as a part of the said transaction, some money was paid. They contended that petitioner misused the signed papers taken from the respondents and fabricated the receipt, on the basis of which he filed the suit.

5. Respondents then filed I.A.No.241 of 2014 referring to the said unregistered Sale Deed and sought a direction to the petitioner to file the same stating that it is dt.08.09.2009. They contended that they had earlier demanded the petitioner to give it through a legal notice given by them on 02.02.2011, but he did not furnish the original or a copy thereof.

6. Counter affidavit was filed by the petitioner merely stating that the transaction under the document dt.08.09.2009 is not subject matter of the suit.

7. By order dt.27.07.2015, the Court below allowed the said I.A. on the ground that the petitioner did not state that he did not have the said document in his possession. It held that it is necessary that said document to be produced from the custody of the petitioner.

8. Assailing the same, this Revision is filed.

9. Counsel for the petitioner sought to contend for the first time in this Court that the petitioner did not have the custody of the said document.

10. When no such plea was raised in the Court below, petitioner cannot be allowed to take such a stand in this Court for the first time. In fact in the grounds of Revision also no such plea was raised by the petitioner that he did not have the custody of the

said document, though there is a mention of such a plea in para 5 of the affidavit filed in support of the stay application.

11. However, be that as it may, since no such plea was raised in the trial Court, the Court below was right in asking the petitioner to produce the said document.

12. I do not therefore 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.

13. Accordingly, this Civil Revision Petition fails and it is dismissed. No order as to costs.

14. Consequently, miscellaneous petitions pending if any, shall stand closed.

M.S. RAMACHANDRA RAO, J

04th April, 2019.

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