

THE HON'BLE Dr.JUSTICE SHAMEEM AKTHER

CIVIL REVISION PETITION No.2548 OF 2019

ORDER:

This revision under Article 227 of the Constitution of India, is filed by the petitioner/defendants, aggrieved by the order dated 31.07.2019 passed in I.A.No.905 of 2019 in O.S.No.3 of 2012 by the learned III Additional Chief Judge, City Civil Court at Hyderabad, whereby the subject Interlocutory Application filed by the revision petitioners/defendants, who setup a counter claim and wanted to file certified copy of the lease deed dated 30.10.2013 to establish that the adjacent property is fetching some rents, was dismissed.

2) Heard the arguments of Sri D. Vijaya Kumar, learned counsel for the revision petitioners, Sri Kishore Rai, learned counsel for the respondents and perused the record.

3) Learned counsel for the revision petitioners would submit that the lease deed was executed in the year 2013 and the written statement in the subject suit was filed in the year 2012. As on the date of filing of the written statement, lease deed was not in existence. Since a claim is made with regard to the damages caused, the said document is relevant and necessary for adjudication of the subject matter of the suit. The Court below erroneously dismissed the subject interlocutory application and ultimately prayed to set aside the impugned order and allow the I.A.No.905 of 2019 in O.S.No.3 of 2012 as prayed for.

4) On the other hand, learned counsel for respondents would contend that the Court below is justified in passing the impugned order. There was no due diligence on the part of the revision petitioners/defendants to get the subject certified copy of lease deed on record after the plaintiffs evidence was closed. There is no illegality or perversity in the impugned order and ultimately prayed to dismiss the revision petition.

5) In view of the submissions made by both sides, the point for determination is:

“Whether the impugned order dated 31.07.2019 passed in I.A.No.905 of 2019 in O.S.No.3 of 2012 by the learned III Additional Chief Judge, City Civil Court at Hyderabad, is liable to be set aside?”

6) POINT: As seen from the material placed on record, the subject lease deed dated 30.10.2013 relates to adjacent property and it was not in existence when the written statement in the subject suit was filed in the year 2012. Subsequently, its original was brought into existence. The Court below held that no reason was assigned by the revision petitioners/defendants for not filing the said certified copy of lease deed dated 30.10.2013 along with the written statement. It is clarified that the original of the said document was not in existence as on the date of filing of the written statement.

7) In the given circumstances, it is relevant to state that in a suit of this nature, to answer the issues framed, the subject certified copy of lease deed is relevant. Furthermore, it is not the document of the revision petitioners/defendants but it is a

document belonging to a neighbour. So the Court below ought to have considered the request made on behalf of the revision petitioners/defendants.

8) Therefore, the impugned order dated 31.07.2019 passed in I.A.No.905 of 2019 in O.S.No.3 of 2012 by the learned III Additional Chief Judge, City Civil Court at Hyderabad, is set aside. Consequently, I.A.No.905 of 2019 stands allowed to get the subject certified copy of the lease deed dated 30.10.2013 on record, in accordance with the procedure established under law.

9) Accordingly, the Civil Revision Petition is ordered. No order as to costs.

Pending Miscellaneous Petitions, if any, shall stand closed.

Date: 11.11.2019
scs

Dr. SHAMEEM AKTHER, J