

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

Civil Revision Petition No.4902 of 2018

ORDER :

Heard both sides.

2. This Civil Revision Petition is filed challenging the order dt.25.07.2018 passed in I.A.No.432 of 2018 in O.S.No.1492 of 2012 on the file of the VIII Additional Senior Civil Judge, Ranga Reddy District, at L.B. Nagar, Hyderabad.

3. The petitioner herein is plaintiff in the above suit.

4. He filed the said suit against respondents for declaration of title and for recovery of possession, apart from perpetual injunction.

5. Written Statement was filed by 1st respondent / 1st defendant opposing the suit claim; but along with Written Statement no documents were filed. The said Written Statement was filed in September, 2012.

6. Thereafter, issues were framed and evidence on the side of petitioner was completed, and the case was posted for evidence of 1st respondent.

7. At that stage, the 1st respondent filed I.A.No.432 of 2018 to receive ten documents as exhibits invoking Order VIII Rule 1-A of Civil Procedure Code, 1908.

8. In the affidavit filed in support of the said application, it is stated by 1st respondent that he could not file the said documents before framing of issues on the ground that they were not traced subsequently; and that he got the documents gradually, and is filing them along with the chief-examination affidavit.

9. The said application was opposed by petitioner contending that the said documents cannot be received in evidence in view of delay in filing the same almost six years after filing of the Written Statement. It was further contended that all the documents were unregistered ones and photocopies, and on the said count also they should not be received in evidence.

10. By order dt.25.07.2018, the Court below passed a Docket Order allowing the said I.A. on the ground that the matter was coming up for 1st respondent's evidence and no prejudice would be caused if the documents are received at this stage, and the documents would be marked subject to proof, relevancy and admissibility.

11. Assailing the same, the present Civil Revision Petition is filed.

12. The counsel for petitioner contended that the Court below ought not to have allowed the said application which was filed long after the trial commenced and after the evidence on the side of petitioner was completed, and serious prejudice would be caused to the petitioner if they are now received. He also contended that no reason is assigned

in the affidavit filed in support of his application as to why the documents could not be filed earlier.

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

14. Admittedly, the application to receive documents was filed by the 1st respondent on 06.03.2018, though he had filed Written Statement in September, 2012. There is no valid reason assigned for not filing these documents along with the Written Statement as is mandated by Order VIII Rule 1-A of Civil Procedure Code, 1908. Because, in the affidavit it is the case of 1st respondent that the documents were not traced “*subsequently*”. Assuming that the documents were not traced at the time of filing of the Written Statement, since all these documents are private documents which are in the custody of 1st respondent, he cannot claim that they were not traced and produce them after the evidence of petitioner was completed because this causes grave prejudice to petitioner.

15. The Court below had not even given any valid reason in the impugned order for allowing I.A.No.432 of 2018 and has not at all adverted to the validity of the cause shown by 1st respondent for filing the documents belatedly. Its finding that no prejudice would be caused is incorrect and cannot be sustained.

16. Accordingly, the Civil Revision Petition is allowed. The order dt.25.07.2018 passed in I.A.No.432 of 2018 in O.S.No.1492 of 2012

on the file of the VIII Additional Senior Civil Judge, Ranga Reddy District, at L.B. Nagar, Hyderabad is set aside; and the said I.A. is dismissed. No order as to costs.

17. As a sequel, miscellaneous petitions pending if any in this Civil Revision Petition, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 27.03.2019

Ndr/*

