

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

C.R.P.Nos.7674, 7713, 7714 & 7717 of 2018

COMMON ORDER:

Heard the learned counsel for the petitioner.

2. These Revision Petitions arise out of the same suit between the same parties. Therefore, they are being disposed of by this common order.

3. The petitioner in all these Revision Petitions is the plaintiff in the suit.

4. He filed the said suit for partition of the plaint schedule properties and for allotment of 1/4th share to himself and also to declare the registered sale deed dt.09-08-2012 and gift settlement deed dt.21-09-2012 as null and void and not binding on him.

5. Written Statement was filed by the respondents opposing the suit claim.

6. After the trial concluded and the matter was posted for hearing of arguments, the petitioner filed I.A.Nos.673 to 676 of 2018.

7. I.A.No.673 of 2018 was filed under Order 7 Rule 14 (3) CPC to receive certain documents. But no reason is assigned in the said application why these documents should not be filed at the time of filing of the suit. I.A.No.674 of 2018 was filed under Order 18 Rule 17 CPC to recall P.W.1 for marking documents filed in I.A.No.673 of

2018, I.A.No.675 of 2018 was filed under Order 16 Rule 1 CPC to issue summons to the 2nd defendant to give evidence and I.A.No.676 of 2018 was filed under Section 151 CPC to reopen the suit for receiving the documents to summon the 2nd defendant as witness.

8. It is contended that examination of 2nd defendant is necessary.

9. Counters were filed by the respondents opposing the same by pointing out that delay in filing the documents is not explained and that 2nd defendant, who is a party to the suit, is entitled to remain silent after filing of the Written Statement and he cannot be compelled to give evidence.

10. By order dt.01-11-2018, the Court below dismissed all the applications. It took note of the fact that the suit is coming up for arguments and at that stage, the petitioner moved these applications without assigning any reason for not filing the documents sought to be filed in I.A.No.673 of 2018 which are admittedly within the knowledge of the petitioner. It also noted that though 2nd defendant was not examined as a witness, it is his choice to examine himself or not and if not, only adverse inference can be drawn against him. It also rejected the I.A.No.676 of 2018 to reopen the suit for receiving the documents and for summoning the 2nd defendant as a witness.

11. Challenging the same, these Revision Petitions are filed.

12. Though the learned counsel for the petitioner sought to contend that grave prejudice would be caused to the petitioner, if the

applications are not allowed, he does not dispute that in I.A.No.673 of 2018 filed under Order 7 Rule 14 (3) CPC to receive the documents, no reason is assigned why those documents could not be filed along with pliant.

13. Though he contended that the documents are sought to be marked to confront the defendants' side witnesses, in view of Order 8 Rule 1 (A) (4) CPC, it is not necessary to mark the documents, if the purpose is only to confront the same to the defendants' witnesses.

14. Therefore, I am of the opinion that I.A.No.673 of 2018 was rightly dismissed by the Court below. Once the said application is dismissed, there is no necessity to recall P.W.1 for marking the documents mentioned in I.A.No.673 of 2018 and therefore I.A.No.674 of 2018 is rightly dismissed.

15. Coming to I.A.No.675 of 2018, as rightly observed by the Court below, petitioner cannot compel the 2nd defendant to give evidence and if the 2nd defendant does not choose to give evidence, the Court may draw adverse inference against 2nd defendant. Therefore, I am of the opinion that I.A.No.675 of 2018 was also rightly dismissed. Consequently, I.A.No.676 of 2018 for reopening of the suit to receive the documents and summon to 2nd defendant as a witness, also deserves to be dismissed, and was also rightly dismissed by the Court below.

16. I therefore do not find any merit in the Civil Revision Petitions. Accordingly, they are dismissed. No costs.

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

JUSTICE M.S.RAMACHANDRA RAO

Date: 28-01-2019
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