

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

CRP.Nos.7742, 7744 and 7746 of 2018

COMMON ORDER:

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

2. Petitioner in all these three Revisions is 3rd defendant in the suit O.S.421 of 2007 on the file of the X Additional Chief Judge, City Civil Court, Hyderabad.

3. Respondents 1 to 6 filed the said suit against the petitioner and others for declaration that revocation of Gift Settlement Deed dt.14.09.2005 by 7th respondent is illegal, in-operative, null & void, and not binding on them and for consequential injunction restraining alienation and also perpetual injunction restraining the petitioner and other defendants from interfering with the possession and enjoyment of the respondents 1 to 6.

4. When the evidence on both sides was closed and the matter was posted for arguments, petitioner filed I.A.No.1224 of 2018 to reopen the evidence of the defendants for the purpose of marking of a document i.e., Confirmation of Statement of Gift Deed dt.21.08.1990 in B-Series;

I.A.No.1225 of 2018 under Order XVIII Rule 17 CPC to recall DW1 for the purpose of marking of the said document; and I.A.No.1226 of 2018 to receive the original Confirmation of Settlement of Gift Deed dt.21.08.1990 for marking it in the B-Series by condoning the delay.

5. In the affidavits filed in support of these applications it is contended that during the course of cross-examination of DW-1 (petitioner), there was a suggestion as to whether petitioner can file the Confirmation of Settlement of Gift given by his mother in 1990 and he had stated that he can file the said document; that the said document was in fact filed in O.S.No.1561 of 2007 before the VI Senior civil Judge, City Civil Court, Hyderabad, and was received back on 27.06.2018, at the time when the cross-examination of DW1 was going on; and therefore these three applications should be allowed, and the petitioner be permitted to file the said document by recalling him and reopening his evidence.

6. These three applications were opposed by the 3rd respondent, who contended that at the stage when the matter is posted for arguments, they ought not to have been filed. He contended that the suit itself was filed in 2005, it was renumbered in 2007, and 13 years later these applications cannot be entertained to receive the

Confirmation of Gift Settlement Deed executed in 1990. He stated that earlier opportunity was given to the petitioner in I.A.No.330 of 2018 and 331 of 2018 to reopen the evidence of defendants 1 to 4 and receive documents by order dt.13.06.2018, and on 20.06.2018 petitioner got examined as DW1 and Exs.B1 to B3 were marked. He contended that filing of the present applications is only to delay the suit and that the so called document is a created, forged and fabricated one.

7. By Common Order dt.27.11.2018, the Court below dismissed all the three applications. It observed that the petitioner did not explain the delay in not producing the said document along with written statement, or along with the chief-examination affidavit, or at the time of cross-examination when it was in the petitioner's possession as on the date he was cross-examined on 07.07.2017 since he received it on 27.06.2018 itself; and there is no cause to reopen the evidence and recall DW1 and mark the said document.

8. Challenging the same, these three Revisions are filed.

9. Counsel for the petitioner contended that the document i.e., Confirmation of the Gift Settlement Deed, executed in

1990 by his mother in favour of his brother and himself was received by the petitioner only on 27.06.2018 and inadvertently it was not produced during the cross-examination of DW1/petitioner and there would be grave prejudice to the petitioner if the three applications were not allowed.

10. Counsel for the respondents 1 to 6 refuted the said contentions and pointed out that these applications were filed belatedly and the documents were available even as on the date of filing of the suit since it was executed in 1990 allegedly and there is no proper explanation for the delay in filing of the same.

11. I have noted the contentions of both sides.

12. Admittedly, petitioner did not file any separate written statement and adopted the written statement filed by the 1st defendant. Even in the written statement of the 1st defendant also there is no reference to the Confirmation of the Gift Settlement Deed executed in 1990.

13. Merely because in the cross-examination, a question was put in that regard, petitioner cannot now seek to file the said document, because the petitioner states that it was already filed in O.S.No.1561 of 2007. In any event, when the

petitioner had it in his possession on 27.06.2018, he ought to have marked it because he was cross-examined on 07.07.2018 also.

14. In the absence of any valid reason for not producing the said document along with the written statement, leave cannot be granted under Order VIII Rule 3A CPC to the petitioner to file the said document, that too, at the belated stage when the matter is posted for arguments.

15. I therefore do not find any error of jurisdiction in the order passed by the Court below warranting interference of this Court under Article 227 of the Constitution of India.

16. Accordingly, these three Civil Revision Petitions are dismissed. No order as to costs.

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

M.S. RAMACHANDRA RAO, J

16th April, 2019.

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