

THE HONOURABLE SRI JUSTICE A.SANTHOSH REDDY

C.R.P.No.253 OF 2021

ORDER:

This civil revision petition under Article 227 of the Constitution of India is directed against the order dated 24.11.2020 in I.A.No.2 of 2020 in O.S.No.264 of 2012, on the file of the Additional Senior Civil Judge, Kothagudem, wherein the said application filed by the petitioners herein (plaintiffs) under Order VII Rule 14(3) CPC to grant leave receive the petition schedule documents in evidence, was dismissed.

2. Heard the learned counsel for the petitioners and learned counsel for the respondent. Perused the record.

3. The petitioners-plaintiffs filed the suit O.S.No.264 of 2012 for declaration and recovery of possession of the suit schedule property against the respondent-defendant. The trial in the suit has commenced and P.Ws.1 and 2 were examined. While so, the petitioners filed an application in I.A.No.2 of 2020 under Order VII Rule 14(3) CPC to grant leave to receive the documents i.e., original pattadar passbook, two pahanies and 1B namoona (ROR) in evidence. The case of the petitioners is that they have

not filed the said documents earlier and after rigorous search, they could trace out the said documents. Earlier, they filed xerox copies of the same and the documents now sought to be filed are just and necessary to prove their case. The respondent filed counter and resisted the claim on the ground that the petitioners earlier filed similar xerox copies along with application and the same was dismissed. The evidence of P.Ws.1 and 2 is completed and at this stage, the petitioners shall not be given permission to fill the gaps in evidence.

4. On a consideration of the material on record, the trial Court vide order 24.11.2020 dismissed I.A.No.2 of 2020 same stating that the petitioners have not shown the description of the documents properly in the list of documents and earlier they have filed an application in I.A.No.1 of 2020 by filing xerox copies to receive them in evidence and the said application was dismissed vide order dated 11.02.2020 and the present application is filed again with the same prayer to receive the original documents. The petitioner failed to file the original pattadar passbook in the earlier application and photostat copy of the same was also not filed. The trial court held that the conduct of the petitioners shows that

they are filing the application only to protract the disposal of the suit and, accordingly, dismissed the said application. Challenging the same, the present revision is filed.

5. Learned counsel for the petitioners submits that the original documents of the pattadar passbook and pahanies were not available when they filed the application to receive the xerox copies and after rigorous search, the said documents could be traced and they are relevant for adjudication of the case and no prejudice would be caused to the respondent if the petition to receive the documents is allowed.

6. On the other hand, learned counsel for the respondent contended that the petitioners failed to produce the original documents and filed xerox copies along with the application and the same was dismissed by the Court below holding that he cannot be permitted to produce the same.

7. Order VII Rule 14 CPC provides for filing of documents relied on in plaint. Order VII Rule 14(1) provides that if the plaintiff sues or relies upon a document in his possession or power, he is required to produce or annex such document in the Court

when he presents the plaint by delivering a copy thereof along with the plaint. Order VII Rule 14(3) further provides that if the plaintiff relies on any other documents which ought to have been produced in Court when the plaint was presented by him by delivering a copy thereof the same could be produced at a later stage of the suit with the leave of the Court provided such documents are produced for the cross-examination of the witnesses of the other party and/or handed over to a witness merely to refresh his memory under Order XII Rule 4.

8. A bare reading of Order VII Rule 14(1), it is seen that if the plaintiff sues upon a document in his possession or power, he is required to produce such document in Court at the time of presenting the plaint by delivering a copy thereof to be filed with the plaint. The said provision has been slightly relaxed under Order VII Rule 14(3) to the extent that the plaintiff may be entitled to produce those documents to utilize the same in evidence with the leave of the Court at the time of hearing of the suit. Thus, it is clear that if leave is granted such a document can be produced and/or used at a later stage also and there is no absolute prohibition to the effect that once the plaintiff has not produced such document at the

time presentation of the plaint, he is precluded to do so for all time to come.

9. Coming to the case on hand, undisputedly, the petitioner has filed similar application earlier to receive the photostat copy of the pattadar passbook and original of encumbrance certificate, however, the photostat copy of the pattadar passbook was not filed and the Court below dismissed the said application I.A.No.1 of 2020, by order dated 11.02.2020. The present application is filed to receive the original of the pattadar passbook along with pahanies on the ground that they are traced recently.

10. It appears that the documents now sought to be relied upon by the plaintiffs at this stage are the original documents which had been filed along with the application in I.A.No.2 of 2020 seeking necessary leave of the court to receive the same and the said application was dismissed by the Court below without going into the merits of the matter. The trial Court has also not properly appreciated the contentions of the petitioners and assigned any valid reasons and in exercise of discretionary power, improperly dismissed the said application.

11. The respondent in his counter stated that pattadar passbook and ROR were issued to him as per the orders of this Court and the said documents filed by the petitioners were not relevant. However, it is for the petitioners to adduce necessary evidence to prove the relevancy and admissibility of the documents during the course of trial. No prejudice would be caused to the case of the respondent if leave for receiving the documents is granted.

12. In view of the above, I find that the trial Court had committed jurisdictional error in dismissing the application of the petitioners to produce additional documents in the suit and the same warrants interference in exercise of the powers under Article 227 of the Constitution of India.

13. In the result, the civil revision petition is allowed. The order dated 24.11.2020 in I.A.No.2 of 2020 in O.S.No.264 of 2012 is set aside. There shall be no order as to costs.

14. Miscellaneous petitions, if any pending, stand closed.

A.SANTHOSH REDDY, J

13.02.2023

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