

HONOURABLE SRI JUSTICE A. GOPAL REDDY

CIVIL REVISION PETITIONS No:4943 & 4944 OF 2010

Dated: 29.10.2010

Between:

Tummidu Ramkumar and another.

..Petitioners

And

Marni Bala Rama Krishna.

.. Respondent.

This Court made the following

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COMMON ORDER:

Since both the revision petitions arise out of a common order, they are being disposed of by this common order.

The petitioners filed these two revisions under Article 227 of the Constitution of India to revise the common order dated 27.9.2010 passed by the Family-cum-Additional District Judge, East Godavari District, in I.A.Nos.1938 and 1939 of 2010 in O.S.No.62 of 2008.

The petitioners herein are the plaintiffs in the suit. They filed the suit for specific performance of an agreement of sale. The trial was completed and the arguments were advanced and the written arguments were also filed by both sides. At that stage, the plaintiffs filed the above applications seeking to reopen the evidence on their side for the purpose of adducing further evidence by P.W.1 and to recall P.W.1.

It is the case of the petitioners that after advancing the arguments, on verification they found that clear evidence was not placed with regard to the payment of consideration under Ex.A1 due to inadvertence and oversight and that the ambiguity regarding the title of the suit schedule property was not properly clarified and these two

aspects should be clarified before the Court by adducing further evidence and that the valuable evidence pertaining to the suit transaction is mixed up with other papers and the same were traced recently.

The Court below having observed that except stating that some documentary evidence could not be placed by oversight and it was traced recently, in order to prove their bonafides, the plaintiffs did not file those documents before the Court and they did not explain the nature of such additional evidence proposed to be placed before the Court, dismissed the applications. Aggrieved by the same, the present revisions have been filed.

Heard the learned Counsel for the petitioners and perused the material available on record.

The learned Counsel for the petitioners-plaintiffs contends that two cheques, which were issued towards advance sale consideration, were returned to the plaintiffs with an endorsement 'received the cash' and therefore, the said two cheques have to be produced before the Court below in proof of payment of advance sale consideration and they have to be marked.

On perusal of the material on record, it is apparent that the plaintiffs did not give any description in their affidavits as to the nature of the documents proposed to be placed before the Court below. Admittedly, the arguments in the suit were completed. At this stage, the plaintiffs came up with the above applications on the ground that some documentary evidence could not be placed by oversight and it

was traced recently. If that being the case, they must give the description of those documents and state the relevancy of those documents for adjudication of the issue involved in the suit. Even, the plaintiffs failed to state in their affidavit as to whether they pleaded in the plaint as to existence of such documents in the transaction.

In this view of the matter and in view of the present stage of the proceedings in the suit, I feel that the order of the Court below does not suffer from any illegality or irregularity warranting interference by this Court and hence, the revisions are liable to be dismissed.

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

Justice A. Gopal Reddy

Date: 29th October, 2010
Nn.

HONOURABLE SRI JUSTICE A. GOPAL REDDY

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