

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

CIVIL REVISION PETITION No.528 of 2019

ORDER :

Heard Sri V.Satyam Reddy, learned counsel for petitioner and Sri Nandigam Krishna Rao, learned counsel for respondent.

2. This Revision is filed under Article 227 of the Constitution of India challenging the order dt.04-01-2019 in I.A.No.1421 of 2018 in O.S.No.8 of 2014 of the Principal District Judge at Nizamabad.

3. Petitioner herein is plaintiff in the suit.

4. She filed the said suit against respondent, who is her mother, for specific performance of an agreement of sale allegedly executed by respondent in her favour on 02-12-2010.

5. Respondent denied the execution of the said agreement, and contended that after obtaining signatures on blank stamp papers from her in connection with a bank loan transaction, petitioner manufactured the agreement of sale.

6. Respondent then filed I.A.No.1421 of 2018 to summon the Tahsildar, Dichpally to produce the following documents:

“(1) application of beneficiary Smt.Doppalapudi Anasuya, R/o.H.No.4-104/B, Dharmaram (B) village for Food Security Card (issued to poor persons below poverty line), pertaining to FSC Reference No.NZ0458312000 consumer No.528024 and new ration Card No.65330414632, FP Shop No.18210113,

(2) Declared annual income of beneficiary Smt.Doppalapudi Anasuya, R/o.H.NO.4-104/B, Dharmaram (B) Village, for issuing Food Security Card, pertaining to FSC Reference No.Consumer No.528027 and New ration Card No.65330414632, FP Shop No.18210113.”

7. She contended that these documents are necessary for her to rebut the contention of the petitioner that she has capacity to pay the sale consideration under the agreement of sale.

8. Petitioner filed counter-affidavit stating that there is no plea raised by respondent that petitioner had no capacity to pay the sale consideration, and therefore the material which is now sought to be collected by respondent through Tahsildar, cannot be looked into and so the application be dismissed.

9. By order dt.04-01-2019, the Court below allowed the said application stating that receiving of the documents, which the Tahsildar may produce, will not cause any prejudice to the petitioner and the question whether they are admissible or not can be decided after full fledged trial.

10. Assailing the same, this Revision is filed.

11. A reading of the written statement filed by respondent does not indicate that any plea was raised by respondent about the capacity of petitioner to pay the sale consideration under the suit agreement of sale. In the absence of any such pleading, no amount of evidence can be looked into regarding the capacity of petitioner to pay the sale

consideration. Therefore, no useful purpose would be served by allowing I.A.No.1421 of 2018.

12. Accordingly, the Civil Revision Petition is allowed; the order dt.04-01-2019 in I.A.No.1421 of 2018 in O.S.No.8 of 2014 of the Principal District Judge at Nizamabad is set aside; and the said I.A. is dismissed. No costs.

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

JUSTICE M.S.RAMACHANDRA RAO

Date: 31-07-2019

Vsv

