

**IN THE HIGH COURT OF JUDICATURE, AT HYDERABAD
FOR THE STATE OF TELANGANA & THE STATE OF ANDHRA
PRADESH**

-

C.R.P.No.3245 OF 2015

Between:

Yanamala Yedu Kondalu
and others

....Petitioners

A n d

Imdisetty Allaiah
and others

....Respondents

DATE OF JUDGMENT PRONOUNCED: 14.08.2015

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE S.V. BHATT

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| 1. | Whether Reporters of Local newspapers
may be allowed to see the Judgments? | Yes/No |
| 2. | Whether the copies of judgment may be
marked to Law Reporters/Journals? | Yes/No |
| 3. | Whether their Ladyship/Lordship wish to
see the fair copy of the Judgment? | Yes/No |

HON'BLE SRI JUSTICE S.V.BHATT

C.R.P.No.3245 OF 2015

ORDER:

The defendants in O.S.No.215 of 2007 in the Court of the
Senior Civil Judge, Gudur, are the revision petitioners.

The revision petitioners have filed I.A.Nos.211, 212 and 404 of

2015 for the reliefs of reopening the suit, recalling P.W.1 and permitting the revision petitioner to further cross-examine P.W.1.

The affidavit filed in support of I.A.No.211 of 2014 sets out the reasons for reopening or recall as follows:

“I submit that the above suit is posted today for arguments. I further submit that the written arguments on behalf of the plaintiffs and also on our behalf already submitted. In addition to my written arguments, I have to submit oral arguments before this Hon’ble Court and this Hon’ble Court allowed me for the same. I humbly submit that at the time of addressing arguments, my counsel informed me that by oversight, P.W.1 was not thoroughly cross examined with regard to link documents of P.W.1 more particularly late Immadi Munaswamy. With regard to survey numbers shown in the link documents and suit schedule survey numbers there are discrepancies and on this aspect also P.W.1 was not cross examined. Though specific pleadings were taken in my written statement that this Hon’ble Court has no jurisdiction to entertain the suit and that the suit is barred by limitation, the relevant issues are also not framed by this Hon’ble Court. The above issues are vital for the just decision in the matter and to sell all the disputes arising between the parties to the suit. Hence, in the interest of natural justice, it is just and necessary to reopen the above suit for purpose of further cross examination of P.W.1 and also for framing all the relevant and necessary issues. Unless, the suit is reopened for the purpose of further cross examination of P.W.1 on my behalf, we stand to suffer serious loss and hardship”.

Against the said assertion, the respondents herein filed counter and the reply is as follows:

“This respondent submits that the above suit was filed for declaration of right and title, possession of the plaintiffs over the plaint schedule property and for cancellation of the registered settlement deed dated 29.05.2006 document No.1284/2006 of SRO., Naidupet executed by the first defendant in favour of the 2nd defendant declaring the same as void and for permanent injunction against defendants (petitioners).

After due contest, arguments were heard and written arguments were filed and the matter was posted for judgment. Meanwhile the petitioner filed this application to reopen the suit for further cross examination of P.W.1 and framing of relevant and necessary issues.

This respondent submits that P.W.1 was thoroughly cross examined in all aspects at length regarding the link documents, facts of the case and legal aspects, limitation and jurisdiction at full length. The petitioners could raise the plea of limitation and framing of relevant issues and jurisdiction at the time of trial or arguments stage of the suit. The matter is coming up for judgment after filing of written arguments and oral arguments by both parties herein. The petitioner filed this petition without valid and appropriate reasons only to drag on the matter; this petition is filed to reopen the suit to recall P.W.1 further cross examination which is not maintainable and deserves dismissal.”

Through the order impugned, the learned trial Judge dismissed the applications. One of the reasons stated by the learned trial Judge is that the trial of the suit was completed long ago, written arguments are filed and the matter was adjourned for further submissions of the learned counsel for the parties. Therefore, in the opinion of the learned trial Judge, the reopen or consideration of any one of the prayers at this stage virtually amounts to filling up the lacunae, if any, perceived by the defendants in the conduct of the suit. The trial Court, in the case on hand, having regard to the stage of suit and also the nature of reliefs prayed for etc., declined to exercise its discretion either to reopen, recall or permit the defendant to cross-examine P.W.1. Hence, the revision.

Sri M.N.Narasimha Reddy, learned counsel appearing for the petitioners, contends that, having regard to the reply stated by the respondents, with a view to affording an opportunity to the revision petitioners, discretion ought to have been exercised in favour of allowing the prayers and such course would not have prejudiced.

I have taken note of the submission of the learned counsel for the petitioners and perused the material available on record.

What is evident from the admitted facts and circumstances of the case is that the suit is of the year 2007. After full-fledged trial in the suit is completed, the revision petitioners by reference to limitation or lack of jurisdiction want the suit to be reopened and further trial conducted by the trial Court.

It is to be noted that issues were settled long ago. On the settled issues, the parties have joined trial and at this stage, if this objection taken by the revision petitioner is to be certainly treated as an objection taken to suit the convenience of the revision petitioner. Without expressing my view on any of the issues vis-à-vis the merits therewith, I see no reason to interfere with the order impugned.

Accordingly, the revision is dismissed. There shall be no order as to costs.

Miscellaneous petitions, if any pending, also shall stand closed.

S.V.BHATT, J

14th August, 2015

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