

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

Civil Revision Petition Nos.1991, 1992 and 1993 of 2015

Date: 28-09-2015

Between:

Madhu Anasuya Devi

.... Petitioner

AND

Thipparthi Suryanarayana and another

.... Respondents

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

Civil Revision Petition No.1991, 1992 and 1993 of 2015

COMMON ORDER:

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Since the issue involved in all the three revision petitions is similar and the parties being one and the same, they are disposed of by this common order.

Heard the learned counsel for the petitioner. In spite of service of notice on the 2nd respondent, there is no representation on his behalf. The notice sent to 1st respondent was returned unserved, hence, a notice was sent to the counsel appearing on his behalf before the Court below. Though the said notice is served, none appears on behalf of the 1st respondent also.

Assailing the docket order dated 08-05-2015 in I.A.Nos.164 of 2015, 162 of 2015 and 163 of 2015 in O.S.No.190 of 2011 passed by the Principal Junior Civil Judge, Jagitial, wherein and whereunder, the applications made under Order VII Rule 14 (3) read with Section 151 CPC, Order XVI Rule 3 read with Section 151 CPC and Section 151 CPC respectively were rejected the

present civil revision petitions are filed. The petitioner/plaintiff herein filed a suit for declaration of title and perpetual injunction against the respondents/defendants 1 and 2 concerning the plaint schedule property admeasuring Ac.0.41 guntas in Survey No.401 situated at Anantharam village of Jagitial Mandal, Karimnagar District. When the case was posted to 30-06-2014 for further evidence of the petitioner/plaintiff, I.A.No.102 of 2014 filed by the petitioner seeking appointment of an Advocate Commissioner was rejected on 06-06-2014. Challenging the said order, the petitioner/plaintiff filed C.R.P.No.2003 of 2014 before the Court. In CRPMP.No.2806 of 2014 in C.R.P.No.2003 of 2014, this court granted interim stay of the proceedings, which was in force till 31-01-2015 and later the said Civil Revision Petition was dismissed. It is stated that on 30-06-2014, the Court below closed the evidence of the petitioner/plaintiff and posted the suit for defendants' evidence. Since the defendants have not yet commenced their evidence, the petitioner/plaintiff filed I.A.No.164 of 2015 on 31-03-2015 seeking to receive certified copies of Pahani Pathrikas concerning the plaint schedule land for the years 1991-1992; 1993-1994; 2011-2012, 2012-2013 and 2014-2015 with a delay. Along with said application, the petitioner also filed two consequential applications in I.A.No.162 of 2015 seeking to summon Village Revenue Officer, Anantharam village, Jagitial Mandal and I.A.No.163 of 2015 for reopening the case of the petitioner/plaintiff side and to permit him to adduce further evidence to prove the documents by examining official witness respectively. All the three applications came to be dismissed on the ground that the documents sought to be produced were filed at a belated stage and no explanation is forthcoming as to why these documents were not produced at the earliest point of time.

It is to be seen that the order rejecting appointment of Advocate Commissioner was received by the petitioner on 25-06-2014 and immediately thereafter, a C.R.P. was filed before this court. On 14-07-2014, this court granted stay of all the proceedings, which was being extended from time to time till 31-01-2015. It is true that there was no order of stay as on 30-06-2014, but in view of the filing of CRP against an order rejecting appointment of Advocate Commissioner, the petitioner could not pursue the matter on 30-06-2014. Hence, it can be said that there are no wilful latches on the part of the petitioner. As stated earlier, though the defendants were served with a notice, no effort was made by them either to engage a counsel or appear in person to resist the claim of the petitioner herein. Since the evidence of the defendants has not yet commenced, no prejudice would be caused if these documents are brought on record through Deputy Tahsildar, Jagitial, as the defendants have an opportunity to cross-examine the Deputy Tahsildar, Jagitial with regard to genuineness and authenticity of those documents and the relevancy of such documents to the case on hand. This Court in **John Santiyago and others v. Clement Dass and others**^[1], held that “when a document is a crucial and relevant document said to be containing a recital in regard to the disputed relationship and the same is not a self serving document, an opportunity to file such a document cannot be denied to the plaintiffs merely on the ground of delay and that it is well settled that when substantial justice and technical considerations are pitted against each other, the cause of substantial justice deserves to be preferred.

As the documents, which are sought to be brought on record are relevant for a just decision of the case, an opportunity to file such documents cannot be denied on the ground of delay. Further,

the circumstances explaining the delay can neither be termed as casual nor can it be called as deliberate.

In view of above facts and circumstances, the orders dated 08-05-2015 in I.A.Nos.164 of 2015, 162 of 2015 and 163 of 2015 in O.S.No.190 of 2011 passed by the Principal Junior Civil Judge, Jagtial are set aside and the Civil Revision Petitions are allowed accordingly. There shall be no order as to costs. As a sequel thereto, miscellaneous petitions, if any, pending shall stand closed.

C. PRAVEEN KUMAR, J

Date: 28-09-2015

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[\[1\]](#) 2014 (2) Andhra Legal Decisions 184