

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

Civil Revision Petition Nos.2131, 2076 & 2220 of 2015

Dated 31st July, 2015

Between:

Shyamala Venu Gopala Reddy

...Petitioner

and

Pallapolu Sambu Reddy and others

...Respondents

Counsel for the petitioner: Sri G.Vijaya Babu

Counsel for respondent Nos.1 to 6: Sri Sreenivasa Rao Velivela

The Court made the following:

COMMON ORDER:

These civil revision petitions arise out of common order in common suit, namely, O.S.No.18 of 2014, on the file of the learned Principal Junior Civil Judge, Mangalagiri.

The petitioner filed the above-mentioned suit for declaration that he along with the defendants has joint easementary right of passage through plaint 'B' Schedule passage-cum-canal landed property shown as ABCD in the plaint plan etc. The petitioner has also sought for consequential permanent injunction restraining respondent Nos.1 to 6 and their men from interfering with or causing obstruction to the joint easementary right of the petitioner and the persons claiming through him.

The evidence was closed on 03.02.2015. Within a week thereafter, the petitioner filed I.A.No.163 of 2015 for re-opening the evidence, I.A.No.164 of 2015 for re-calling PW.1 and I.A.No.165 of 2015 for receiving four documents as additional evidence. These applications are seriously resisted by respondent Nos.1 to 6. Accepting the objections of the said respondents, the lower Court has dismissed the applications.

I have heard Sri G.Vijaya Babu, learned counsel for the petitioner, and Sri Sreenivasa Rao Velivela, learned counsel for respondent Nos.1 to 6.

From a perusal of the order of the lower Court, it is evident that the main ground on which the applications of the petitioner were dismissed is that the documents were sought to be produced belatedly. At the hearing, the learned counsel for the petitioner does not dispute the fact that the documents sought to be produced were in existence before the evidence was closed. He has, however, submitted that his client has specifically pleaded in the affidavit filed in support of the IAs that PW.1 has obtained the documents proposed to be marked under the Right to Information Act, 2005 and that when PW.1 was sought to be confronted with those documents, the lower Court has suggested to the petitioner to produce the documents separately.

Undoubtedly, Order VII Rule 14 of CPC envisages that the plaintiff shall produce all the documents on which he seeks to place reliance when the plaint is presented. However, a wide discretion is vested in the Court to allow the documents to be produced at a later stage. The Courts time and again held that the plaintiff cannot be permitted to file the documents by way of additional evidence for the mere asking and that before granting leave, the Court must be convinced that sufficient reasons existed for the plaintiff for not filing the same when the plaint was presented.

The explanation offered by the petitioner in his affidavit for not producing the documents at an earlier stage is that PW.1 has obtained those documents under the RTI Act evidently before the commencement of the evidence on the respondents' side and that DW.1 was sought to be confronted with those documents, upon which, the lower Court is stated to have suggested to the petitioner to produce the same separately. However, the lower Court has not referred to this averment in its order. Though in strict sense, the petitioner may not have satisfied the requirements of Order VII Rule 14 CPC, in my opinion, standing on technicalities the Courts shall not refuse to admit the documents if they

have any bearing on the adjudication of the suit on merits. As it is pleaded that the proposed documents throw light on the extent and nature of the property in respect of which easementary right is claimed, it would be in the interests of justice that the petitioner is permitted to produce those documents, however, on reasonable terms.

Accordingly, all the three IAs are allowed subject to the petitioner paying to respondent No.1, on behalf of respondent Nos.1 to 6, a sum of Rs.10,000/- (Rupees ten thousand only) towards costs within two weeks from the date of receipt of a copy of this order. On proof of such payment, the lower Court shall re-open the evidence and allow the petitioner to produce the documents in evidence subject to their proof and relevancy.

The civil revision petitions are accordingly allowed.

As a sequel to disposal of the civil revision petitions, the pending interlocutory applications shall stand disposed of as infructuous.

C.V.NAGARJUNA REDDY, J

31st July, 2015
VGB